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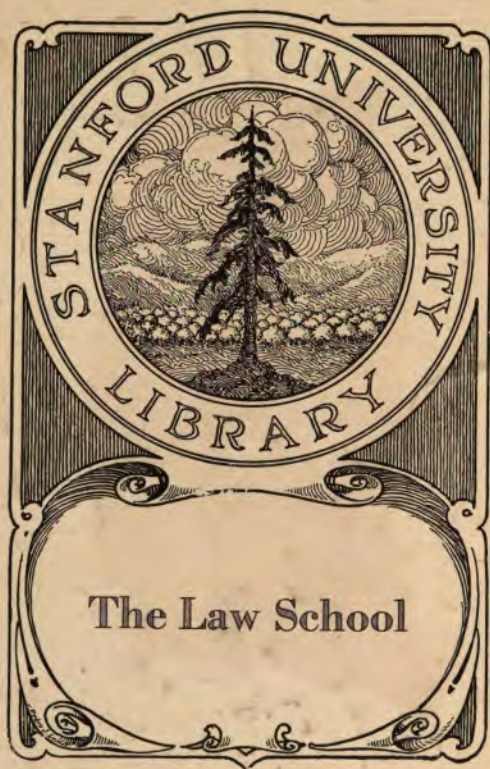
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*Local Laws see page 367*  
**GENERAL LAWS**

(AND JOINT RESOLUTIONS)

OF THE

**LEGISLATURE OF ALABAMA**

PASSED AT THE

**SPECIAL SESSION 1909**

HELD AT THE CAPITOL IN THE CITY OF MONTGOMERY

**Commencing Tuesday, July 27, 1909**

BRAXTON BRAGG COMER, GOVERNOR.  
HENRY B. GRAY, LIEUT.-GOVERNOR.  
E. P. THOMAS, PRES. PRO TEM OF THE SENATE.  
A. H. CARMICHAEL, SPEAKER OF THE HOUSE.



I, Frank N. Julian, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

FRANK N. JULIAN,  
Secretary of State.

Montgomery, Alabama  
The Brown Printing Co., State Printers and Binders  
1909

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# GOVERNOR'S MESSAGE.

*Gentlemen of the Legislature, House and Senate:*

In calling you into extraordinary session, I think it right to compliment you on your success in legislation. Unquestionably you have created a revolution for good throughout the State, and time will approve your acts; will verify the correctness of your statutes and show you acknowledged benefactors of your State.

## EQUALIZATION OF TAXES.

The law for equalization of taxes has been successful. Without putting an unjust burden on any property, it has added in franchise and ad valorem value one hundred million dollars to the tax assessments of the State. This, too, in face of the fact that the country has suffered from a panic. The operation of your law is new, but I feel confident that after being more fully understood, and when normal business conditions return, it will be most successful in securing an equitable adjustment of all tax values.

## ELEEMOSYNARY INSTITUTIONS.

Your appropriations for the eleemosynary institutions of the State have been liberal and have accomplished much good. The asylums at Tuscaloosa and Mt. Vernon are on a much better basis. Both asylums are full. The expenses last year were \$80,000 more than in 1907, and already this year \$110,000 more. There should be some method of returning to the counties those inmates whose condition does not require confinement, and also some method of vicing and limiting expenses and returning to the State treasury such moneys as are unexpended.

#### IV

Your appropriation for the Institute for the Deaf has extended the facilities of that institution, and the trustees report that most excellent work is being done there.

The Boys' Industrial School at East Lake, with its new buildings, is on a larger and better basis for the care and training of the wayward youths who come under its management.

The Old Soldiers' Home at Mountain Creek is better cared for, and conditions there are more satisfactory than ever before.

#### PENSIONS.

You designated \$100.00 per year for first class pensioners; for second class, \$80.00; for third class, \$64.00; for fourth class, \$50.00; and you made an appropriation of \$350,000 per year to be added to the \$50,000 previously appropriated and the one mill ad valorem tax, thus establishing the pension fund. These sums amounting to \$829,153.18 for the past year are \$352,255.94 more than the pension fund amounted to for the year ending September 30th, 1907. But the pension examiners, under the law, increased the number of first class pensioners from 147 to 1,791 and the total number from 15,475 to 16,696. Notwithstanding this large increase in the number of pensioners, the first class actually received \$88.75 for the fiscal year 1908 as against \$60.00 for the year ending September 30th, 1907; second class, \$71.00 as against \$50.00; third class, \$56.00 as against \$40.00; fourth class, \$44.00 as against \$30.00. On account of the increased number of pensioners and the advancement from lower class to first class, the old soldiers did not receive this year the full amount per capita for the last quarter; yet they, in the aggregate and individually, received much more than in the year ending September 30th, 1907, and a larger amount than ever before, and the grand total for pensioners of \$829,153.18 per annum evidences the State's gratitude.

## V.

### SCHOOLS.

Your appropriations for schools of every class have been like planting good seed in ground that has been made thoroughly rich and fallow.

The new buildings at the University, at the Polytechnic, at the Girls' Industrial—long needed—have placed those institutions on a new and higher basis, securing for the young men and women of the State facilities for thorough education.

Aided by your appropriations, the normal and agricultural schools and the new high school system show remarkable growth. The accessibility of these schools to every part of the State places within easy reach of all an opportunity for securing advanced education.

From the increase in ad valorem tax and your direct appropriation the public schools have an increased maintenance of \$650,000 per annum, and the further amount of \$67,000 per annum for rural school houses. The people have largely taken advantage of the fund for repairing and building rural school houses and of the increased fund for rural education. It is estimated that the rural districts, taking advantage of the \$1,000 fund given annually to each county for repairing and building school houses—not over \$200 being allowed any school—have repaired 191 rural school houses, and have erected 384 new buildings at an estimated cost of \$400,000, of which the State paid less than \$100,000. Through the appropriation of \$2,000 annually to the high schools of the different counties, 29 new schools will be in active operation next year, and school property of an estimated value of \$435,000 has been added to the State. A new impetus has been given toward better and higher education, and higher citizenship, and I am suggesting to you that the way to compulsory education looks easy and safe, and I further suggest that you do not hesitate in this matter. No parent with such advantages as Alabama now offers has the right to rear his family in ignorance.

## VI

At a cost of \$45,000 you repaired the Medical College at Mobile and established it as a State institution and appropriated \$5,000 annually for its maintenance. You increased the appropriation for the State Medical Board \$5,000 annually. The former offers great opportunities for the medical students of the State and there is no reason why they should not be largely taken advantage of, and I understand that they are. The State Medical Board has done a great work in giving the Pasteur treatment; in innoculating against disease and in environing every part of the State with scientific care.

### COURTS.

You have established new courts of law and equity, giving facilities for quick trial in all cases, and you have placed the Judicial System on a higher basis.

You increased the salaries of the Justices of the Supreme Court, of the Chancellors, of the Circuit Judges and Solicitors, and you made appropriations for the salaries, formerly paid by the counties, of the Justices of the City Courts and the Law and Equity Courts.

### FORESTRY, FISH AND GAME.

You made the forestry law, which will work great good, it is believed, in protecting our forests from destruction. Your fish and game laws have proven successful in the protection of fish and game, and have brought revenue into the Treasury.

### SOIL SURVEY.

Your appropriation of \$10,000 annually for the soil survey of the State is giving to the farmers a better knowledge of the soils and their adaptability to certain crops.

## VII

### LIVE STOCK BOARD.

Your law establishing a State Live Stock Sanitary Board and the office of State Veterinarian, and the appropriation of \$5,000 for expenses has been of great benefit in protecting live stock from contagious, and infectious diseases, and has done great good in excluding such diseases from our State.

### MILITARY.

Your increased military appropriation of \$5,000 has been productive of great good. And it is my pleasure to report to you that our State troops are in better condition and morale than ever before. The unfortunate labor strike in the Birmingham district and the Eufaula riot have proven that these troops are of incalculable benefit to the State. I cannot commend them too highly as one of the most important factors for the prevention of crime and the preservation of the peace of the State.

### RAILROAD LEGISLATION.

Your law establishing the Railroad Commission and giving it power to exercise certain delegated functions with reference to rates has been sustained by the Federal Circuit Court of Appeals at New Orleans, and will prove most useful alike to every class of shipper and carrier. This is something for which the State has contended for thirty years—a contest commenced by Captain Walter L. Bragg—and when the full extent of the law is realized, it will prove one of the most equitable and far-reaching laws in its beneficial results of any of our statutes. Your law making passenger rates 21½ cents per mile and regulating the rate on the Eight Group Acts, comprising the 110 articles of common production, consumption and use, are now in effect and are not unjust to the carrier, but a great saving to the consumer, producer and shipper. The farmers, manufacturers and consumers of the State have been given nearly the same freight rate on these articles that has been

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maintained in Georgia, the Carolinas and Virginia for many years. In other words, this is not a pioneer movement. It is a traveled way; and there is no reason why railroads should come into our State, where conditions are so similar, and after crossing our State line immediately increase passenger and freight rates. Any one now shipping a bale of cotton, a bushel of corn, of peanuts, a ton of fertilizer, of cotton seed meal, a car of lime or brick, lumber, wagons, in fact, any article of common production, consumption and use can ship same at a less rate than formerly.

The Railroad Commission acting under a statute you have enacted has secured reduced express rates so that any one shipping a coop of chickens, a crate of eggs, a kid or a lamb, fruit or vegetables, now pays a less rate. All this will encourage the consumer and multiply the number of producers and prove of great advantage to shipper and carrier alike. It will also encourage manufacture of every kind. It is impracticable to manufacture successfully raw material such as cotton, lumber, iron and steel into commercial products unless we have an equitable freight rate to assemble the raw material, and also an equitable freight rate for its distribution. Nothing so suppresses manufacture of every description as a high local freight rate. It has been the unfortunate policy of our public service corporations to charge high local rates on raw material, giving advantages to the interstate freight rate on raw material; making it more feasible to ship products of the State out of the State for manufacture, and to ship manufactured products from without the State into the State for local consumption. These things your laws attempt to regulate in favor of the State, and, if carried out in the proper spirit by both carrier and shipper, will work for the good of all alike. The Federal Circuit Court of Appeals at New Orleans has decided that an injunction of your laws regulating and reducing freight and passenger rates on an ex parte statement of a public carrier is improvident and wrong; that it is safer for all parties concerned that a trial of your laws should come to the Federal Supreme

## IX

Court through the State courts rather than through the Inferior Federal Court; that ready and quick injunctions on ex parte statements are reprehensible.

You have wisely provided a method whereby, if at any time the Legislature or Railroad Commission makes a rate, either express, passenger or freight, that the public carrier deems unfair and destructive to its interest, the question may be taken to the State court and thence to the Federal Supreme Court. This has been our contention as the best method of governing the rights of the shipper and the carrier and protecting the individuality and rights of the State. Your rates are now in force, and most of the railroads have accepted them and dismissed their suits, but the L. & N., N. C. & St. L., Central, and Western Railroads are still contesting these rates before the Inferior Federal Court. This, in face of the fact, that the State administration and the Railroad Commission have assured these railroads, through the press and otherwise, that they would meet them in a spirit of adjustment and settlement, and would arrange inequalities and oppressions, if there be any; thus settling outside of the courts every contention and removing whatever friction there might be between carrier and shipper. So far this amity and equity on the part of the State has been rejected.

We are asking for further appropriation, to be used, if need be, to protect the State along this line. There is no question that a settlement by the State with the Southern, the A. G. S., the M. & O., the Seaboard, the Atlantic Coast Line, the Frisco, the Northern Alabama, and the A. B. & A. Railroads, and the decision of the Circuit Court of Appeals maintaining the integrity of your legislation, have been worth many times the trouble and money so far expended. There is nothing more dangerous to the interest and integrity of the State than to have the people defenseless should any corporation or individual attempt to hector or dominate the State. The State should always be in position to maintain a firm stand in carrying out its statutes and in enforcing the protection of the citizen.

## X

You created the following new officers and made appropriation for the expenses of the same.

State Game and Fish Commissioner.....	\$2,500
Two State Tax Commissioners.....	5,400
Inspector of Jails, Cotton Mills, etc.....	2,400
Director of Cotton Statistics Bureau.....	1,500

### EXPENDITURES.

Your appropriations and expenditures have fructified every interest in the State. While a deficit will be created, the Parable of the Talents will be rendered in our midst. You have put the money out at usury, and with that usury you bring to every interest and every citizen the highest returns.

Would you recall the money appropriated to the State Board of Health; to the Soil Survey; to the Live Stock Board; to the Medical College at Mobile? Would you recall the establishment of the law and equity courts; the higher pay for the judiciary? Would you recall the increased appropriations for the insane; for the Institute for the Deaf, for the Boys' Industrial School? Would you recall the money for the Agricultural Schools; the Normal Schools; for the county High Schools; for the Girls' Industrial, the Polytechnic and the University? Would you recall the money for the rural school buildings and for the maintenance of the rural schools? Would you recall the money for the old soldiers? These in a large measure have been your expenditures.

It is true that the appropriations were made after careful study of the condition of the Treasury, and the future of the State, and it was not then thought that a deficit would be created.

The State wide prohibition bill occasioned the loss of revenue derived from the whiskey license, and it is largely responsible for the coming deficit in the Treasury.



## XI

But this money is well lost, and the State should rejoice that we have cut loose from a revenue that comes from licensing the liquor traffic. Our convict camps show that a large per cent of the inmates are there because of the use of liquor. As Governor I have come in contact with the wives, mothers and children of these convicts, and have had forcibly impressed upon me the terrible results of the whiskey habit in its worst form. While originally I was a local optionist, I now believe that every power of the State should be used to exterminate the evils of intemperance. Some have said that the jails and penitentiaries have always been filled with this class of inmates. This is true, but it is also equally as true that they will continue to be thus filled as long as we allow the sale of liquor in our midst. Your determination to protect the women and children and the future generations of the State by the State wide prohibition bill, to decrease the criminal records and to increase one thousand fold the chances for higher and better citizenship, is worthy of high commendation. It is true we have some citizens who will always drink, and some who will always sell liquor. It is equally true that the future motherhood of the land and the future children should be protected as far as possible from this great evil.

I believe that you could have made no better investment than to cut out the revenue derived from the whiskey license; that, with temperance established, we can look forward to increased property values and to better citizenship—the accomplishment of both of which are, I think, sure prophecy. This will fill the deficit in our Treasury; will make every future of the State, both citizen and property, more secure and more prosperous. The deficit in the Treasury will come in December and will last until the first of January, and will come again next year perhaps a little earlier and will last until the tax collection returns in January. I will tide over the deficit by the method used by my predecessors in the same contingency, and I feel confident in assuring you that no harm will be done the finances or the credit of the State.

## XII

### INADEQUACIES OF THE PROHIBITION LAW.

I call your attention to the fact that at the extra session when you were newly returned from the people where prohibition had been widely discussed, of your own initiative and by an overwhelming majority, you enacted the State wide prohibition law. That statute has been found inadequate of enforcement. The evasions of the law have been many and apparently easy. In some places open defiance of the law has been manifest, and the so-called blind tiger is abroad. You should not shoot tigers with blank cartridges or bird shot. It only tends to make them more vicious. It is within your power to enact laws suppressing open, willful violations of any particular law. It is within your power, and it is your duty to the State to enact such statutes as will enable the State to carry out the execution of your State wide prohibition law. In the violation of your prohibition law it has almost come to the point when you must determine for the people whether whiskey shall dominate and control the State, or the State dominate and control whiskey. I assure you that the open, persistent despite of any law engenders serious conditions, and you had better never have touched the prohibition question unless you make the penalty for violations prompt and sure.

One of the worst features of the prohibition question is that the saloon interest and the beer and whiskey manufacturers outside of the State have invaded our State with paid agents, with money for debauching purposes, with declarations that you and all prohibitionists are fanatics, and they have attempted to yoke the whiskey interest with our Supreme Court and the Judiciary; and have tried to engender a fight on the courts by the prohibitionists. By false alarms and specious pleas they have tried to enthrall our business interests. In their greed for profit they have overlooked the fact that any sane man knows that none of their contentions can be true. They seem to be utterly regardless of what you know is the vicious effect on our people.

### XIII

In some sections of the State the debaucheries and violations of the whiskey seller are alarming. To stop these, Law and Order Leagues have been formed. It is a sad state of affairs when a number of citizens have to form themselves into a Law and Order League to secure the enforcement of the law.

You have provided adequate funds for the payment of a sufficient number of State officers to maintain order and prevent open violations of law. It is within your power to compel these officers to discharge their duty in carrying out fully the mandate, as well as the spirit, of the law, or to give place to those who will. Many of our officers are conscientiously discharging their duties, and they deserve the highest commendation.

Nothing can so weaken the fibres of a State as a condition of lawlessness engendered by neglect, carelessness, or connivance of public officials paid by the public to discharge their duty, and sworn to do the same. As law-makers, you can do no higher service than to enact a statute that will establish a method of quick arraignment and trial of official delinquents. It is certainly less injurious to the body politic for a citizen to violate the law and make a dollar by it, than for an officer of the law, by connivance, carelessness or graft, to allow violations of the law simply because of supposed individual advantage, or because of the claim that public sentiment in the community is against the enforcement of the law.

You should establish a statute that would make it difficult for an officer of the law to discriminate in the execution of the law. Commercialism in a man is bad; in a woman more so; in a town, city or nation still worse; and if the officers of the law commercialize themselves, anarchy is drawing dangerously near. Certainly, the people, whether property owner, citizen, or law-maker, should get together as one man and say that this shall not be.

## XIV

### CONSTITUTIONAL PROVISIONS.

I again put it before you to enact a constitutional provision for the division of counties, and also for biennial sessions. This is the second extra session of the Legislature you have had, and from your experience and the experience of the State it is clear that quadrennial sessions are not well for the best interest of the people. The Legislative Department of the government has always been nearest to the people and most protective of their interest. Alabama is the only State in the Union that has quadrennial sessions of the Legislature.

There is a general demand throughout the State that the people be permitted to vote on the question whether or not they will amend the Constitution so as to place a prohibition article in the organic law. My purpose in embodying this proposition in the call is to give you an opportunity to allow the people to pass on this very serious matter. When you enacted the State wide prohibition law, I take it, you did not intend it to be ephemeral—a statute of a day. Undoubtedly, you intended a revolution in the relation of our State to liquor, and the law was intended to fix it so that Alabama would never again have saloons or liquor licenses. Prohibition should be so disposed of that it will not be recurrent at every election, and a disturbing factor in the politics of the State. I believe you could render no greater benefit to every business interest of the State than to enable the people to settle this question once for all time. If it could be written in the Constitution, agitation would stop. The liquor interests would realize that they could not exploit their wares in Alabama. Prohibition is not an experiment. In the sections of the State where the law has been enforced great good has resulted. The United States Steel Corporation, the largest employer of labor in the world, has lately issued an order at its Pennsylvania Plant that every employee while at work shall refrain from drinking liquor, as experience has proven that temperance gives better results. Parents dislike for their sons to associate with saloon men;

## XV

or their daughters with young men who drink. The wife who has a drinking husband suffers more than tongue can tell. A large proportion of the State convicts have committed crime while under the influence of drink. Whiskey has created a tragedy in every family. Is it not your duty, in legislating for the future good of the State, to give the people an opportunity to incorporate in our organic law—the Constitution—an article for driving out from every part of the State this fearful influence for crime and family destruction?

On our labors, jointly and severally, as faithful servants of the people, I invoke the blessings of Almighty God.

B. B. COMER.



## GENERAL LAWS.

No. 1.)

AN ACT

(H. 10)

To make provisions for defraying the expenses of the Extraordinary Session of the Legislature.

Section 1. Be it enacted by the Legislature of Alabama, That the sum of sixty thousand dollars or so much thereof as may be necessary be and the same is hereby appropriated out of any monies in the treasury not otherwise appropriated to pay the per diem, and mileage, of the members, officers and employees of the Legislature of Alabama, and other expenses thereof for the present extraordinary session.

Amount appropriated.

Approved August 3, 1909.

No. 3.)

(H. J. R. 36)

Whereas, Article 5 of the Constitution of the United States provides that whenever two-thirds of both houses (of Congress) shall deem it necessary, shall propose amendments to the Constitution, or, on application of the legislatures of two-thirds of the several states, shall call a convention proposing amendments, which in either case shall be valid to all intents and purposes:

And whereas, the legislatures of twenty-seven states have applied to the Congress of the United States for the submission to the states of an amendment to the Constitution providing for the election of United States Senators by direct vote of the people,

In relation to election of U. S. Senators by direct vote.

Therefore, be it resolved by the House of Representatives, of the Legislature of Alabama, the Senate concurring, that the Sixty-first Congress of the United States is requested, and by this resolution application is made by the Legislature of the State of Alabama to the Congress of the United States in its sixty-first session, to submit

to the several states an amendment to the Constitution providing for the election of United States Senators by a direct vote of the people.

Resolved further, That a copy of this resolution be certified by the clerk of the house and secretary of the senate to the speaker of the house and the president of the senate of the United States.

Approved August 13th, 1909.

No. 4.)

AN ACT

(H. 33.

To make an appropriation for the payment of expenses incurred in publication or proclamations of Governor on the three Constitutional amendments voted on at the election held in this State on November 3rd, 1908.

Appropriation; payment for publication of proclamations.

Section 1. Be it enacted by the Legislature of Alabama, That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying for the publication of the three proclamations of the governor on the proposed amendments to the Constitution voted on at the election held in this State on the third day of November, 1908; the publication of said proclamations being required by the Constitution and laws of Alabama.

How paid.

Section 2. That the auditor shall draw his warrant on the treasurer for the payment of the accounts due the proprietors of the newspapers that published the said proclamations upon the verification of said account by such party, and approval of same by the governor.

Repeal.

Section 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved August 13, 1909.



No. 6)

AN ACT

(H. 22)

To authorize and provide for the deposit by Life Insurance Companies organized under the laws of this State of securities equal to or in excess of the legal reserve on or value of policies issued by them, and for the registration of such policies.

Section 1. Be it enacted by the Legislature of Alabama, That any life insurance company organized under the laws of this State may deposit with the insurance commissioner, in addition to the amount which may now or hereafter be required by law to be deposited, securities to any amount not less than \$5,000.00, which securities shall be delivered to the State treasurer by said insurance commissioner and held by the State treasurer in his official capacity in trust for the common benefit of all holders of its policies registered under the provisions of this act. And any company making such deposits shall make further deposits from time to time as hereinafter by this act provided. Such securities may include, in addition to the kind of securities now required by section 4565 of the Code to be deposited, certificates of deposit issued by any national bank, or by any bank or trust company organized under the laws of this State, bonds of the United States, of any State, or of any county or municipal corporation, of this State, the market value of which is above par, notes or mortgages, secured by real estate for double the amount, and duly recorded conveyances, vesting title in the State treasurer, in his official capacity, of real estate acquired by such company through foreclosure proceedings instituted by it upon mortgages in which its funds have been lawfully invested, and of other improved real estate lawfully acquired by such company, which conveyances shall be accompanied by satisfactory evidence of ownership of the property described therein; provided, that any and all of such securities shall be satisfactory to the insurance commissioner. The State treasurer shall hold title to such real estate so conveyed to him in trust as aforesaid until other satisfactory securities

Insurance companies organized under laws of this state may make deposits;

Benefit of registered policy holders.

Kind of securities.

Title vested in State Treasurer.

Securities satisfactory to Insurance Commissioner.

Valuation of  
real estate.

ties in lieu thereof have been deposited with him, and upon the substitution of other satisfactory securities for any particular piece of real estate so held by him he shall reconvey the same to the company. The insurance commissioner may cause such real estate to be valued, and properly certify the ascertained value to the State treasurer, and the company shall pay all reasonable costs incurred for such valuation, and any other expense incident to the making of the deposits aforesaid.

Form of Cer-  
tificate.

Sec. 2. After the making of the deposits provided for in this act such life insurance companies may issue policies of insurance or endowment having on their face a certificate in substance as follows: "State of Alabama—Department of Insurance. This is to certify that this policy is registered by the insurance department, and that the legal reserve hereon is secured by bonds, mortgages and other approved securities certified to and on deposit with the State treasurer, under the laws of Alabama." Certificates in substance like the above, but ending with the words "under section 4565 of the Code of Alabama, 1907," instead of the words "under the laws of Alabama," shall be deemed a sufficient compliance with the form above prescribed. Such certificate shall, upon the request of the insurance company, be signed by the insurance commissioner, or in his name by his authorized deputy, and sealed with the Great Seal of the State, and for each certificate with the Great Seal of State attached as herein provided the insurance commissioner shall collect one dollar. Such policies shall be known as registered policies, and a memorandum of each such policy containing such certificate, in such form and stating such facts as the insurance commissioner may prescribe, shall be furnished the commissioner and kept in his office.

Certificate  
signed by Ins.  
Commis-  
sioner.

Registered  
policies.

Ins. Commis-  
sioner to keep  
register; du-  
ties.

Sec. 3. It shall be the duty of the insurance commissioner to keep such a register of all policies containing such certificate as will enable him to compute their value at any time. Upon written proof, attested by the president, or vice-president, and secretary of the company which shall have issued such policies, that any of them

have been commuted or terminated, the insurance commissioner shall commute or cancel the same on the register. The net present value, or reserve value, of every registered policy, shall be ascertained according to the standard of valuation of policies of life insurance prescribed, or which may hereafter be prescribed, by the laws of this State, when the first premium shall have been paid thereon, less the amount of such liens or charges, not exceeding such value, as the company may have against it, and shall be entered opposite the record of said policy in the register at the time such record is made, or, on the first day of January in each year, or within sixty days thereafter, the insurance commissioner shall, and at any other time and at more frequent intervals he may cause the registered policies of each company to be carefully valued, or revalued as the insurance commissioner may require, and the actual value thereof, less such liens or charges, not exceeding such value, as the company may have against them, shall be entered upon the register opposite the record of each policy, and the insurance commissioner shall furnish a certificate of the aggregate of such values to the company. It shall be the duty of the insurance commissioner to cancel on the register mutilated policies issued by said companies, and to register in lieu thereof other policies presented of like tenor and date.

Value of policies to be ascertained.

Cancellations of mutilated policies.

Sec. 4. Each company which shall have made the deposit herein provided for shall make additional deposits from time to time of such securities as are authorized by section 1 of this act to be deposited in such amount that the market value of all the securities deposited shall always be at least equal to the net value of the registered policies issued by said company, less such liens and charges, not exceeding the net value, as the company may have against them. So long as any company shall maintain its deposits, as herein prescribed, at an amount equal to, or in excess of, the net value of its registered policies as aforesaid, it shall be the duty of the insurance commissioner to sign and affix the Great Seal of the State to the certificate provided for in section 2 of this

Additional deposits; securities shall have market value equal to net value of policies.

Ins. Commissioner to affix Great Seal.

act on every policy presented to him for that purpose by any company making such deposits.

Record, State  
Treasurer;

Officers duties  
as to securi-  
ties; addi-  
tional secu-  
rities.

Sec. 5. The State treasurer shall keep a careful record of the securities deposited by each company, and if at any time it shall appear to the insurance commissioner or to the State treasurer that the value of the securities of any company held on deposit is less than the actual value of the registered policies issued by such company, it shall not be lawful for the insurance commissioner to execute the certificate on any additional policies until the company shall have made good the deficit by depositing additional securities. If any company shall fail or neglect to thus make good such deficit within sixty days it shall be deemed to be insolvent and may be proceeded against in the manner provided by law in such cases.

Deposit as to  
non-registered  
policies; certi-  
ficate as in  
Sec. 2.

Sec. 6. Every company which shall have made the deposit herein provided for, may at any time after the date on which said deposit was made, deposit with the insurance commissioner securities of the kind authorized by this act, and in accordance with the provisions of the same, in an amount equal to the actual value of all its non registered policies, which it shall have in force at the time, less such liens or charges, not exceeding their actual cash value, as the company may have against them; and the insurance commissioner shall, when requested so to do, furnish such company with a certificate of the kind prescribed in section 2 of this act; to be attached to and made a part of each of said policies. The Commissioner shall, in such case, enter upon each of such certificates the number of the policy to which it belongs.

Increase of  
deposits.

May withdraw  
excess de-  
posits.

Sec. 7. Any company depositing under the provisions of this act may increase its deposits of such securities as are authorized under this act. And any company whose deposits exceed the net value of all registered policies which it has in force, less such liens and charges, not exceeding such net value, as the company may hold against them, may withdraw such excess. And any company may at any time withdraw any of the securities which it has deposited by depositing others of equal value, satisfactory to the

commissioner, and of the character authorized by this act, in their stead. And so long as said company shall remain solvent and maintain its deposits, as by this act required, it may collect the income, interest coupons, rents and profits, on the securities deposited as the same accrue.

Income from deposits.

Sec. 8. All securities deposited with the insurance commissioner as provided in this act, shall be by him promptly delivered into the custody of the State treasurer who shall, in his official capacity, receipt to the insurance company making such deposit of securities, and hold the same, as provided in section 4575 of the Code.

Ins. Commissioner to deliver to State Treas., receipt of State Treas.

Sec. 9. All certificates heretofore made by the insurance commissioner on policies of life insurance similar in substance to the certificates prescribed in section 2 of this act, and all deposits of securities heretofore made with the insurance commissioner as certified in said certificates, are hereby made subject to the provisions of this act. It shall be the duty of every life insurance company which has heretofore issued policies containing such certificates, if they have not already done so, to furnish the insurance commissioner a memorandum of all such policies, in such form and stating such facts as the commissioner may prescribe, and the register herein required to be kept shall contain a record of all such policies, and the provisions of this act shall apply to such policies.

Certificates heretofore issued subject to provisions of this act.

Ins. Companies to furnish memorandum to Ins. Commissioner.

Sec. 10. The provisions of this act shall not apply to fraternal corporations, or associations, secret societies, or any organization doing a life insurance business in this State on the assessment plan.

Fraternal corporations excepted.

Sec. 11. Any expense incident to the carrying out of the provisions of this act shall be borne by the company or companies governed hereby.

Expense.

Sec. 12. This act shall be effective upon its approval by the Governor.

Effective.

Approved August 17th, 1909.

To promote temperance and suppress the evils of intemperance; to discourage the use and consumption of alcohol, alcoholic, spirituous, vinous, malt, brewed, and fermented liquors and other liquors, liquids, bitters and beverages defined and set forth in the act, and substitutes or devices therefor; and to prohibit the manufacture, sale, offering for sale, keeping or having in possession for sale, barter, exchange, giving away, furnishing or otherwise disposing of the said liquors, liquids and beverages, the carrying on of the business of a brewer, distiller, rectifier of spirits, or retail or wholesale dealer in liquors, or retail or wholesale dealer in malt liquors, and the keeping or maintaining of unlawful drinking places, which are declared to be common nuisances and are to be abated as such.

Be it enacted by the Legislature of Alabama:

1. That the term "prohibited liquors and beverages" shall include and be deemed to embrace the following: (1) Alcohol, alcoholic liquors, spirituous liquors, and all mixed liquors any part of which is spirituous; foreign or domestic spirits or rectified or distilled spirits; absinthe, whiskey, brandy, rum and gin; (2) vinous liquors and beverages; (3) malt, fermented or brewed liquors of any name or description manufactured from malt wholly or in part, or from any substitute therefor; beer, lager beer, porter and ale; and other brewed or fermented liquors and beverages by whatever name called; hop-jack, hop-ale, hop-weiss, hop-tea, malt tonic or any other beverage which is the production of maltose or glucose, or in which maltose or glucose is a substantial ingredient; (4) any other drinks, liquors or beverages containing one-half of one per cent of alcohol or more by volume at sixty degrees Fahrenheit; or any other liquors or liquids manufactured or sold, or otherwise disposed of for beverage purposes containing said amount of one-half of one per cent of alcohol or more; (5) any intoxicating bitters or beverages by whatever name called.

Terms defined.

2. That the term "retail dealer in liquors" shall mean and be deemed to designate every person, firm, association or corporation that sells, or offers for sale, any foreign or domestic distilled spirits or wines in less quantities than five gallons at the same time; and the term "wholesale dealer in liquors" shall mean and be deemed to designate every person, firm, association or corporation that sells, or offers for sale, foreign or domestic distilled spirits or wine in quantities of not less than five gallons at the same time; and the term "retail dealer in malt liquors" shall mean and be deemed to designate every person, firm, association or corporation that sells, or offers for sale, malt liquors in less quantities than five gallons at one time; and the term "wholesale dealer in malt liquors" shall mean and be deemed to designate every person, firm, corporation or association who sells, or offers for sale, malt liquors in quantities of not less than five gallons at the same time; and the term "brewer" shall mean and be held to designate every person, firm, association or corporation that manufactures fermented liquors of any name or description from malt wholly or in part, or from any substitute therefor; and the term "distiller" shall mean and be held to include every person, association or corporation that produces distilled spirits, or who brews or makes mash, wort, or wash fit for distillation, or for the production of spirits, or who by any process of evaporation separates alcoholic spirits from any fermented substance, or who, making or keeping mash, wort, or wash, has also in possession or use a still.

Terms retail  
dealer defined.

Wholesale  
dealer defined.

Dealers in  
malt liquors,  
terms defined.

Brewers.

Distillers.

3. That it shall be unlawful for any person, firm, or corporation or association within this State to manufacture, sell, offer for sale, keep or have in possession for sale, barter, exchange, give away, furnish at public place or elsewhere, or otherwise dispose of the prohibited liquors and beverages described in section 1 of this act, or any of them, in any quantity; but this inhibition does not include, and nothing in this act shall affect the social serving of such liquors or beverages in private residences in ordinary social intercourse; provided, however, that nothing in this

Sales pro-  
hibited, places.

Sections of  
act approved  
Nov. 23, 1907  
not repealed.

Violation;  
penalty.

Unlawful to  
carry on bus-  
iness; pen-  
alty.

act contained shall repeal sections 2, 3, 4, 5, 6, 7, 8, 9 and 10 of an act approved November 23, 1907, entitled "an act to prohibit the manufacture, sale, barter, exchange, giving away to induce trade, the furnishing at public places, or otherwise disposing of any alcoholic, spirituous, vinous or malt liquors, intoxicating bitters or beverages, or other liquids or beverages by whatever name called, which if drunk to excess will produce intoxication, except the sale of alcohol in certain cases and upon certain conditions, and except the sale of wine for sacramental purposes," which said sections of said act shall remain in full force and effect; any violation of this section of this act shall be a misdemeanor punishable by a fine of not less than fifty nor more than five hundred dollars, to which, at the discretion of the court or judge trying the case, may be added imprisonment in the county jail or confinement at hard labor for the county for not more than six months for the first conviction; and on the second and every subsequent conviction of a violation of this section the offense shall, in addition to a fine within the limits above named, be punishable by confinement at hard labor for the county for not less than three nor more than six months, to be imposed by the court or judge trying the case.

4. That it shall be unlawful within this State to carry on the business of a brewer, distiller, rectifier of spirits, or retail or wholesale dealer in liquors, or retail or wholesale dealer in malt liquors; and any violation of this section, whether a first or a subsequent offense, shall be punishable as prescribed in section 3 for violations of that section. The carrying on business as such brewer, distiller or rectifier of spirits, or retail or wholesale dealer in liquors, or retail or wholesale dealer in malt liquors, shall for each separate day that it is carried on constitute a separate offense, to be punished as prescribed herein.

5. That it shall be unlawful for any person, firm, association or corporation, directly or indirectly to keep or maintain, or in any manner to aid or abet in keeping or maintaining, any of the following places, which are hereby declared to



be unlawful drinking places; (1) Any place or resort where the prohibited liquors or beverages, or any of them are kept to be drunk upon or about the premises by persons resorting there for that purpose; (2) any club room or other place in which are received or kept for the purpose of barter or sale, or use, or gift as a beverage, or for distribution or division among or furnishing to or use by members of any club or association of persons by any means whatever the prohibited liquors and beverages, or any of them, referred to in section 1 of this act; (3) any club room or room of any association of persons in which said prohibited liquors or beverages, or any of them, are kept or stored for the purpose of being drunk or consumed by the members of such club or other association of persons or their guests or others on the premises, or at or near the place where such liquors or beverages, or any of them, are kept or stored; (4) Any place adjacent to or near the premises of any club, corporation or association, or other combination of persons to which members or their guests or others, by the permission of members, resort for the purpose of drinking the prohibited liquors and beverages, or any of them, that are kept at or near such place. Any of the places herein designated if kept or maintained shall be and constitute an unlawful drinking place, and the act of keeping or maintaining any such room or place shall be deemed a separate offense for each day that it continues; and any violation of this section, whether a first or subsequent offense, shall be punishable as prescribed by section 3 for violations of that section. Any place or room kept or maintained in violation of the provisions of this section shall be deemed to be a common nuisance and may be abated by writ of injunction issued out of a court of equity upon a bill filed in the name of the State by the State attorney general, or any solicitor or prosecuting attorney whose duties require him to prosecute criminal causes on behalf of the State, in the county wherein the nuisance is maintained, or by any citizen or citizens of such county, such bill to be filed in the county in which the nuisance exists. And all rules of evidence and the practice and procedure

Unlawful  
drinking  
places defined.

Separate of-  
fense for each  
day; penalty.

Common nu-  
isance; injunc-  
tions; At-  
torney Gen-  
eral, solicitors  
and citizens  
may file bill;  
rules of evi-  
dence.

Chartered  
clubs; forfei-  
ture of charter.

that pertain to courts of equity generally in this State may be invoked and applied in any injunction procedure hereunder. Any chartered club or incorporated association of persons under the laws of Alabama that is guilty of violating any of the provisions of this section of this act, or maintains or keeps any such place as is hereinabove described, shall forfeit its charter, and such forfeiture may be declared by a proceeding in quo warranto against the club or incorporated association in a court of competent jurisdiction in the county where the unlawful act is committed.

Any section  
unconstitu-  
tional shall not  
affect other  
sections.

6. That if any section or provision of this act shall be held to be void or unconstitutional it shall not affect or destroy the validity or constitutionality of any other section or provision which is not in and of itself void and unconstitutional; and it is not intended by this act to interfere with the exclusive power of congress of the United States to regulate commerce with foreign nations and among the several States, and this act shall be so construed as to avoid conflict with that clause of the constitution of the United States which confers upon the congress the power to regulate commerce with foreign nations and among the several States and with Indian tribes.

Liberal con-  
struction.

beverages in-  
cluded.

7. That this act shall be liberally construed so as to accomplish the purpose thereof, which is to promote temperance and reduce and discourage the use and consumption of the said prohibited liquors and beverages described in section 1 of this act, and any device or substitute for any of the prohibited liquors and beverages, including those beverages that are commonly known and called "near beer," such as White Top, Pabst mead and other similar drinks and beverages, shall be held and deemed to be within the inhibition of this statute.

Repeal; ex-  
ceptions.

8. That all laws and parts of laws, general, local and special, in conflict with the provisions of this act be and the same are hereby repealed; but the sections from 2 to 10, both inclusive, of the act, approved November 23, 1907, referred to in section 3 of this act, are not repealed; provided, however, that this repeal shall not affect

any existing right, remedy or defense or liability incurred, nor shall it affect any action or prosecution, civil or criminal, already commenced, or which may hereafter be commenced, for any offense already committed, or to enforce any right or penalty, or punishment under any repealed law, and as to all such cases the laws enforced at the time of the enactment of this statute shall continue in force.

9. That this act shall take effect from and after its approval by the governor, the public welfare requiring it. Effective.

Approved August 9, 1909.

No. 8)

H. J. R. 7

### HOUSE JOINT RESOLUTION

Of the Legislature of the State of Alabama, ratifying the 16th amendment of the Constitution of the United States.

Whereas, the Congress of the United States on July —, 1909, adopted a Joint Resolution, proposing an amendment to the Constitution of the United States, as follows:

“Resolved, by the Senate and House of Representatives of the U. S. A., in Congress assembled, two-thirds of each house concurring therein, that, the following article is proposed as an amendment to the Constitution of the United States, which, when ratified, by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes, as a part of the Constitution:—” Ratification of.

Article XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census, or enumeration.” And the foregoing proposed amendment having been laid before the Legislature of the State of Alabama, for consideration and action;

Now, therefore; be it resolved, by the Legislature of the State of Alabama, That the foregoing amendment to the Constitution of the United

States be, and the same is hereby ratified to all intents and purposes, as a part of the Constitution of the United States.

2. That the Governor of this State, is hereby requested to forward to the President of the United States an authentic copy of the foregoing joint resolution.

Approved August 17th, 1909.

No. 9)

AN ACT

(S. 42

To amend section 3374 of the Code of Alabama.

Sec. 3374 Code  
1907 amended.

Conveyances  
of property.

Received in  
evidence.

Transcript.

Cases now  
pending not  
affected.

Repeal.

Section 1. Be it enacted by the Legislature of Alabama, That section 3374 of the Code of Alabama be and the same is hereby amended so as to read as follows, to wit: "3374 (992) (1798) (2154) (1544) (1275). When self proving; certified copy evidence. Conveyances of property, real or personal, or any interest therein, whether absolute or on condition, which are acknowledged or proved according to law, and recorded, may be received in evidence in any court without further proof; and if it appears to the court that the original conveyance has been lost or destroyed, or that the party offering a transcript, had not the custody or control thereof, the court must receive the transcript, duly certified, in the place of the original, unless the reputed maker is in bona fide possession of the property and makes and files an affidavit that the said conveyance is a forgery. Provided that the provisions of this act shall not apply to any case now pending, which was brought since the Code of 1907 became operative and before the passage and approval of this act.

Sec. 2. Be it further enacted, that all laws and parts of laws in conflict with the provisions hereof be and the same are hereby repealed.

Approved August 18, 1909.

No. 10

AN ACT

(S. 39

To provide for the holding of two terms each year of the circuit court of Marshall county, at Albertville, to provide for the jurisdiction thereof and to regulate proceedings therein.

Section 1. Be it enacted by the Legislature of Alabama, That there shall be held in Albertville, Marshall county, Alabama two terms each year of the circuit court of Marshall county, which said terms shall commence on the second Monday in January and the second Monday in July in each year and each term may continue two weeks.

Sec. 2. Said court shall have original jurisdiction to try and determine all civil and criminal causes of action arising within the territory embraced in precincts four (4), five (5), thirteen (13), sixteen (16), eighteen (18), twenty (20), twenty-two (22) and that portion of twenty-four (24) lying on Sand Mountain in said Marshall county.

Sec. 3. Said court shall be presided over by the judge of the ninth judicial circuit of Alabama or the judge of any other circuit to which Marshall county may hereafter be attached; and all criminal causes pending in said court shall be prosecuted by the solicitor of said circuit.

Sec. 4. All appeals or certiorari proceedings from the justice courts, the mayor's courts and the county court of Marshall county where the cause of action arose in said territory, shall be taken, heard and disposed of in said circuit court at Albertville.

Sec. 5. The clerk of the circuit court of Marshall county shall be ex-officio the clerk of said court and shall be required to procure and keep all necessary dockets, records and books for the use of said court and the dockets, records, books and papers pertaining to said court, shall be kept by him in his office in the court house hereinafter provided for at Albertville. He shall also keep in said office at Albertville a deputy to transact the business of the clerk, and said deputy, in the name of the clerk, may issue all process in the manner and form now required by law, and the clerk himself when so required shall likewise issue all papers and process for said court at Albertville, but all such process, papers and documents so issued shall be returnable to the circuit court at Albertville.

Sec. 6. The sheriff of Marshall county shall keep a deputy for said court whose office shall be

**Sheriff to keep deputy for court.** in the said court house at Albertville, and the sheriff shall also keep all needful records for said court as are now required by law to be kept for the circuit court of Marshall county. He shall

**Duties.**

also execute and serve all process, writs and papers that may be returnable to said circuit court at Albertville and make return thereof to said court at Albertville and shall attend each and every term of said court. All legal sales by the sheriff arising in the jurisdiction of the said court shall be made by him in front of the court house at Albertville.

**Jurors.**

Sec. 7. Twenty-four jurors shall be drawn and summoned for each week of each term of said court in the way and manner prescribed by law for drawing and summoning jurors in Marshall county for the circuit court, which said jurors shall be drawn from the qualified jurors residing in Marshall county and when so drawn and summoned they shall attend upon said court at Albertville and serve as jurors in said court under the pains and penalties prescribed by law for the service of jurors upon the circuit court of Marshall county, and they shall receive the same compensation both as to per diem and mileage as the regular jurors serving in the circuit court of said county.

**Compensation.**

**Grand juries.**

Sec. 8. No grand juries shall be drawn to serve in said circuit court at Albertville but the regular grand juries of said county shall retain all the powers, exercise all the jurisdiction and be charged with all the duties as heretofore; and the clerk of the circuit court or his deputy at Albertville shall set down for trial in the circuit court at Albertville all criminal causes arising by indictment in the circuit court of said county or by appeal from the justices' courts, the mayor's courts and the county court where the cause of action arose within the territory embraced within the jurisdiction of said circuit court at Albertville as herein provided; and said causes shall be tried under the rules and regulations for the trial of criminal causes in the circuit court of Marshall county.

**Duties of clerk and deputy.**

**Cases now pending.**

Sec. 9. All causes now pending in the circuit court of Marshall county where the cause of action arose within the jurisdiction of said circuit

court at Albertville as herein provided, shall be set down for trial at the first term of the circuit court at Albertville.

Sec. 10. The said circuit court at Albertville shall be governed by the rules of pleading and practice provided by law for the circuit court of Marshall county and shall be in all respects a branch of said regular circuit court.

Sec. 11. Within thirty days after the passage of this act the town of Albertville shall provide a suitable place for holding said court temporarily for a period of not less than two years and without expense to Marshall county; and when said provision is so made the mayor of Albertville shall file with the clerk of the circuit court of said county a certificate duly sworn to certifying that such suitable place has been provided, designating the location and description of said place. Upon the filing of such certificate the necessary dockets, books and records for the use of said court shall be purchased at the expense of the county, the juries be drawn and summoned and the first term of said court as herein provided, shall be held, commencing on the second Monday in January, 1910. On or before the second Monday in January 1912 a permanent building shall be erected in the town of Albertville, without expense to Marshall county, wherein said court shall be permanently held, which building shall contain necessary court, office, jury and witness rooms for the use of said court. The town of Albertville shall tender to the sheriff of Marshall county and his deputies the use of its municipal prison for the incarceration of prisoners during the terms of said court and at such other time as may be found convenient by the sheriff and his deputies but without expense to the county; the tender to be made by certificate of the mayor duly sworn to and filed with the sheriff of Marshall county; but in no event shall the sheriff incarcerate any prisoner therein until the same is made secure and sanitary.

Rules of pleading and practice.

Place of holding court; certificate of mayor.

Dockets, records and books purchased at expense of county.

First term.

Permanent building.

Town to tender use of prison.

Under law made.

Approved August 18, 1909.

To amend section 3046 of the Code of 1907.

Be it enacted by the Legislature of Alabama That section 3046 of the Code of 1907 be and the same is hereby amended so as to read as follows: 3046. (634). Southeastern division; times and places of holding courts. The chancery courts in the southeastern chancery division shall be held in each year, at the following times and places: In the sixteenth district, composed of the county of Covington, at Andalusia, on Friday before the first Monday in January and July, and may continue two days. In the first district, composed of the county of Escambia, at Brewton, on the first Monday in January and July, and may continue three days. In the second district, composed of the county of Conecuh, at Evergreen, on Thursday after the first Monday in January and July, and may continue three days. In the third district, composed of the county of Butler, at Greenville, on the second Monday in January and July, and may continue one week. In the seventh district, composed of the county of Macon, at Tuskegee, on the third Monday in January and July, and may continue three days. In the fourth district, composed of the county of Crenshaw, at Luverne, on Thursday after the third Monday in January and July, and may continue three days. In the fifth district, composed of the county of Lowndes, at Hayneville, on the fourth Monday in January and July, and may continue one week. In the tenth district, composed of the county of Pike, at Troy, on the first Monday in February and August, and may continue four days. In the eleventh district, composed of the county of Coffee, at Elba, on Friday after the first Monday in February and August, and may continue two days; at Enterprise, on the first Monday in March and September, and may continue three days. In the ninth district, composed of the county of Bullock, at Union Springs, on Thursday after the second Monday in March and September, and may continue three days. In the fourteenth district, composed of the county of Barbour, at

Sec. 3046 Code 1907 amended.

Chancery courts S. E. chancery division.

16th district; time of.

First district; time of.

Second district; time of.

Third district; time of.

7th district; time of.

4th district; time of.

5th district; time of.

10th district; time of.

11th district; time of.

9th district; time of.

14th district; time of.



Eufaula, on the third Monday in March and September, and may continue four days. In the eighth district, composed of the county of Russell, at Seale, on Friday after the third Monday in March and September, and may continue two days. In the thirteenth district, composed of the county of Henry, at Abbeville, on Thursday after the first Monday in March and September, and may continue three days. In the sixth district, composed of the county of Montgomery, at Montgomery, on the first Monday in April and October, and may continue three weeks. In the fifteenth district, composed of the county of Geneva, at Geneva, on the fourth Monday in April and October, and may continue two days. In the twelfth district, composed of the county of Dale, at Ozark, on Thursday after the fourth Monday in April and October, and may continue three days. In the seventeenth district, composed of the county of Houston, at Dothan, on Thursday after the fourth Monday in March and September of each year and may continue three days.

Approved August 18, 1909.

No. 13)

AN ACT

(S. 23

To amend section 3487 of the Code of Alabama (1907).

Be it enacted by the Legislature of Alabama, That section 3487 of the Code of Alabama be and the same is hereby amended so as to read as follows: "3487. Lines, works, etc., not to be constructed through yards, curtilage dwellings, gardens, stable lots, etc. No street railroad company or any other corporation, except railroad companies, shall, without the consent of the owner, construct any railway, tramway, canal, tunnel, underground passage, telegraph or telephone line, aqueduct, pipe line or any other line or works through any yard or curtilage of a dwelling house, garden, stable lot or barn."

Approved August 18, 1909.

To submit to the qualified electors of the State at a general election to be held on the first Monday after the expiration of three months from and after the final adjournment of the present session of the Legislature for their consideration, an amendment to the constitution for the purpose of forever prohibiting the manufacture, sale and keeping for sale, of alcoholic and malt liquors and other intoxicating liquors and beverages, with the exception that alcohol may be sold for medical, scientific and mechanical purposes, and wine for sacramental purposes, under such regulations as the legislature may have prescribed, or may hereafter prescribe, and to declare that nothing in the constitution of Alabama shall be construed to prevent the legislature under the police power from designating the places where such liquors may not be stored or kept. Be it enacted by the Legislature of Alabama,

Submission of amendment; time of.

1. That the following amendment to the constitution of Alabama is hereby proposed to be submitted to the qualified electors of the State for their consideration at an election to be held on the first Monday after the expiration of three months from and after the final adjournment of the present session of the legislature at which the amendment is proposed, to wit: Article XIX.

Art. XIX in re to manufacture and sale of liquors.

Section 1. The manufacture, sale and keeping for sale of alcoholic and malt liquors and other intoxicating beverages shall be forever prohibited in this State; but alcohol may be sold for medical, scientific and mechanical purposes, and wine for sacramental purposes, under such regulations as the legislature may have prescribed or may hereafter prescribe. Section 2. Nothing in the constitution of Alabama shall be construed to prevent the legislature under the police power from designating places where such liquors may not be stored or kept.

Legislature not to be prevented as to police power.

Duty of governor; proclamation; publication.

2. That it shall be the duty of the governor to give notice by proclamation to be published in one newspaper in each county in the State at least eight successive weeks next preceding the

said election or the amendment proposed by this act to be submitted to the qualified electors of the State for their consideration.

3. That at the general election to be held as herein provided the qualified electors shall vote upon said amendment, and on the official ballots printed for such election there shall be printed the following, viz: "Shall the following be adopted as Article XIX of the Constitution of Alabama: Section 1. The manufacture, sale and keeping for sale of alcoholic and malt liquors and other intoxicating beverages shall be forever prohibited in this State; but alcohol may be sold for medical, scientific and mechanical purposes, and wine for sacramental purposes, under such regulations as the Legislature may have prescribed or may hereafter prescribe. Section 2. Nothing in the constitution of Alabama shall be construed to prevent the legislature under the police power from designating places where such liquors may not be stored or kept. Yes, No." The choice of the electors shall be indicated by a cross-mark made by him or under his direction opposite the word expressing his desire.

Ballots; form of.  
Choice of electors.

4. That officers to hold such election shall be the same, and shall be appointed in the same manner and by the same officials as now provided by the election law of the State for the appointment of officers to hold elections in this State, and the election shall be held in all things in accordance with the law governing general elections and with the constitutional provisions concerning amendments to that instrument.

Election of officers; how appointed; law governing.

5. That the votes cast at said election shall be counted, canvassed and tabulated and return thereof made to the secretary of State in the same manner as in elections for representatives to the legislature. The result of said election shall be made known by proclamation of the governor, and if a majority of all the qualified electors who voted at said election upon the proposed amendment voted "Yes" said amendment from the date of said proclamation shall be valid to all intents and purposes as a part of the constitution of Alabama and as an article thereof.

Count of votes; return of; result of election; proclamation.

Approved August 18, 1909.

To amend section 2 of an act approved February 18th, 1895, entitled "An act to amend an act entitled an act to establish a city court for the county of Talladega, approved February 23, 1893;" and to amend section 2 of an act approved February 8th, 1899, entitled "An act to amend sections six (6) and twenty-five (25) of an act approved February 18, 1895, entitled "An act to amend an act entitled an act to establish a city court for the county of Talladega," approved February 23, 1893." Be it enacted by the Legislature of Alabama:

Act of 1893  
amended.

1. That section 2 of an act approved February 18, 1895, entitled "An act to amend an act entitled an act to establish a city court for the county of Talladega, approved February 23, 1893," be and the same is hereby amended so as to read as follows, to wit:

Judge elective;  
time of, etc..

Section 2. Be it further enacted by the Legislature of Alabama, That the judge of said court shall be elected by the qualified electors of said county at the general election held therein on the first Tuesday after the first Monday in November, 1910, and at each such general election every

Term of judge.

sixth year thereafter, and such judge of the said court shall hold office from the first Monday after the second Tuesday in January next after their election, and until his successor is elected and qualified. The judge of said court, at the

Judge's qualifications.

time of his election, shall have been a citizen of this State, and of the United States for a period of five years next preceding his election, and shall not be less than twenty-five years of age; and shall be learned in the law, and at the time of his election and during his continuance in office, such judge shall be a resident citizen of the county of Talladega. The judge of said court

Oath of office.

shall take the oath of office required by law to be taken by judges of the circuit court before entering upon the discharge of the duties pertaining to the said office; and he may be impeached or removed from office for the same causes by the same tribunals, and in the same manner as is

Impeachment.

provided by law for the impeachment or removal from office of judges of circuit courts. Such judge shall have and exercise all the jurisdiction and powers which are now, or which may hereafter be lawfully exercised by judges of the circuit court and chancellors of this State, including authority to issue writs of injunction, prohibition, ne exeat, and all other writs which are now, or may hereafter be lawfully issued by judges of the circuit court and chancellors of this State. Vacancies in the office of such judge shall be filled by appointment by the governor; and the appointee shall hold his office until the next general election for any State officer held at least six months after the vacancy occurs, and until his successor is elected and qualified; the successor chosen at such election shall hold office for the unexpired term and until his successor is elected and qualified.

Jurisdiction  
and powers.

Vacancies in  
office; how  
filled, etc.

2. That section 2 of an act approved February 8th, 1899, entitled, "An act to amend sections six (6) and twenty-five (25) of an act approved February 18th, 1895, entitled "An act to amend an act entitled an act to establish a city court for the county of Talladega," approved February 23d, 1893," be and the same is hereby amended so as to read as follows, to wit: Section 2. Be it further enacted, that section twenty-five (25) of said act, approved February 18, 1895, entitled "an act to amend an act entitled an act to establish a city court for the county of Talladega," approved February 23d, 1893, be and the same is hereby amended so as to read as follows: Section 25. Be it further enacted, that there shall be a solicitor for said court who shall perform such duties in said court as are now or shall hereafter be required of circuit court solicitors in circuit courts of this State. He shall take a like oath of office and file the same in the office of the secretary of State. He shall be elected by the qualified electors of Talladega county, Alabama, at the general election to be held in said county on the first Tuesday after the first Monday in November, 1910, and at each such general election every fourth year thereafter, and he shall at the time of his election be a resident citizen of

Sec. 2 of act  
amended.

Solicitor.

Elective;  
time of.

Vacancies;  
how filled.

Compensa-  
tion.

Talladega county, over the age of twenty-five years, and learned in the law. Each such solicitor shall hold office until his successor is elected and qualified. The governor shall by appointment fill any vacancy for the unexpired term. He shall receive as compensation for his services the same fees as are taxed by law for the solicitors in criminal cases in the circuit courts of this State, to be taxed and collected in said city court in the same manner as such fees are taxed and collected in the said circuit courts of this State and said fees shall be paid to him instead of the State; and the said solicitor of said court shall have a claim against the fine and forfeiture fund of said county for his fees in cases where convictions are secured, and the fees cannot be collected.

Approved August 19, 1909.

No. 17)

AN ACT

(H. 222)

To fix the salaries of the judge and associate judge of the city court of Montgomery. Be it enacted by the Legislature of Alabama:

Judges salaries  
fixed; amount  
payable.

1. That from and after the passage of this act the salaries of the judge and associate judge of the city court of Montgomery shall be four thousand (\$4,000.00) dollars per annum for each, payable, as now provided by law, in monthly installments.

How paid.

2. That the amount of such salaries, in excess of the amount payable out of the State treasury, shall be payable out of the treasury of Montgomery county in monthly installments, by warrants drawn by the board of revenue of Montgomery county on the treasurer of said county.

Approved August 19th, 1909.

No. 19)

AN ACT

(H. 106)

To fix the times of holding, in each year, the circuit courts of Chilton county in the fifteenth judicial circuit of the State of Alabama, and to repeal former laws fixing the times for holding said courts.

1. Be it enacted by the Legislature of Alabama, That the circuit courts of Chilton county, in the fifteenth judicial circuit of the State of Alabama, shall be held in each year as follows: On the second Monday in May and may continue two weeks; and on the fourth Monday in November and may continue three weeks. Times fixed.

II. That all laws and parts of laws in conflict with the provisions of this act, or fixing any other times for holding the circuit courts of said Chilton county, be, and the same are, hereby repealed. Repeal.

Approved August 19th, 1909.

No. 25)

AN ACT

(H. 102

To permit cities and towns additional time in which to sell bonds to pay outstanding debts not secured by bonds under the provisions of an act of the Legislature approved August 14, 1907, and to validate and confirm issues of bonds made under said act.

Be it enacted by the Legislature of Alabama:

1. That all cities and towns in this State, which have held elections authorizing the issues of bonds to pay their outstanding debt not secured by bonds under the provisions of an act of the legislature approved August 14, 1907, that have not yet sold such bonds, shall be authorized to sell such bonds so authorized at any such election at any time within one year from the passage of this act. Time for sale of bonds.

2. That such bonds shall be issued and sold in accordance with the provisions and requirements of said act of Aug. 14, 1907, and when so sold shall have the same validity as if they had been sold within the time allowed by said act. Bonds sold under act of Aug. 14, 1907.

4. That where an election has been held under a valid ordinance at which a majority of the votes cast were for the bond issue, said issue is hereby validated in all respects notwithstanding the failure of any person to perform any duty required by law. Validation of issue.

Approved August 19th, 1909.

To amend section 5556 of the Code.

Section 5556,  
Code 1907  
amended.

Articles per-  
mitted to be  
handled or car-  
ried at re-  
duced rates.

Excursion,  
mileage and  
commutation  
tickets.

Free trans-  
portation and  
reduced rates.

Exchange  
passes.

Express com-  
panies.

Free trans-  
portation for  
dead body, etc.

Section 1. Be it enacted by the Legislature of Alabama, That section 5556 of the Code be and the same is hereby, amended so as to read as follows: 5556. Exemption of certain persons, classes and conditions from freight and passenger regulations. Nothing in this article shall be construed to prevent the carrying, storage or handling by any common carrier subject to the provisions of this article of property free or at reduced rates for the United States, or for the State of Alabama, or for any municipality, or for charitable purposes, or to or from fairs, and expositions, for exhibition thereat, or property shipped by or to its officers or employes for their own exclusive use or consumption or that of their immediate families; or prevent such common carrier from issuing excursion, mileage or commutation tickets, provided such excursion, mileage or commutation tickets shall be obtainable by all persons applying therefor under like circumstances and conditions. Nor shall anything in this article be construed, to prevent such common carriers from giving free transportation or reduced rates therefor to any person authorized by law to receive such free transportation or reduced rates therefor. And it shall be lawful for any railroad company to give or exchange passes or free transportation with the officers and employes of other railroad companies and of express companies and the immediate members of their families, and for any express company to carry free or at reduced rates the personal packages or property of its officers and employes and of the officers and employes of railroad companies, for their own exclusive use or consumption or that of their immediate families. It shall also be lawful for any railroad or other common carrier to furnish free transportation for the body of any deceased officer, agent or employee and to the members of the family of the deceased to and from the place of decease and to and from the place of burial. Upon the shipment of live stock



or other property requiring the care of an attendant, the common carrier may furnish free transportation, including return passage, to the shipper or to some person or persons designated by him as attendant. Free passes to attendant of live stock.

Section 2. All laws and provisions of law in conflict or inconsistent with the provisions of this act are hereby repealed. Repeal.

Approved August 19th, 1909.

No. 32) AN ACT (H. 13

To appropriate the sum of fifty thousand dollars, or as much thereof as may be necessary, to defray the expenses incurred and to be incurred in connection with the railroad rate litigation now pending in the Federal court or any litigation which may hereafter be instituted between the various railroads of Alabama and the railroad commission of Alabama, or other State officials.

Be it enacted by the Legislature of Alabama:

That there is hereby appropriated the sum of fifty thousand dollars, or as much thereof as may be necessary, to defray the expenses incurred and to be incurred in connection with the railroad rate litigation now pending in the Federal court or any litigation which may hereafter be instituted between the various railroads of Alabama and the railroad commission of Alabama, or other State officials. The money hereby appropriated, or as much thereof as may be necessary, shall be paid by the treasurer from time to time as may be necessary on the warrants of the auditor in payment of accounts approved by the governor. Provided that nothing herein shall prevent or curtail the payment of the fixed conditional or contingent appropriations to the public schools and needy confederate soldiers. Amount appropriated; for defraying expenses rate litigation. How paid.

Approved August 19th, 1909.

No. 40) AN ACT (H. 60

To educate the children of Alabama on the evils of intemperance. Be it enacted by the Legislature of Alabama:

Placards furnished.

1. That it shall be the duty of the State superintendent of education of the State of Alabama to have prepared and furnished to the teachers in the public schools placards printed in large type upon which shall be set forth in attractive style statistics, epigrams and mottoes showing the evils of intemperance especially from the use of intoxicating liquors.

Supt. of Education to make changes in printed matter.

2. That it shall be the duty of the said State superintendent of education to make changes in the matter printed on the said placards from time to time as he may deem proper and that he shall at all times keep the public schools of Alabama provided with a sufficient number of said placards to post one of them in every school room of Alabama.

Expense; paid by State.

3. That the expenses of printing and expressing the said placards shall be paid out of the State treasury on an account made out by the said State superintendent of education and approved by the Governor and the auditor shall draw his warrant for the same.

Duty of teachers.

4. That it shall be the duty of every public school teacher in the State to keep one of the said placards posted in a conspicuous place in the school room occupied by such teacher.

Duty of Superintendents.

5. That it shall be the duty of the county superintendents of education and the district trustees to assist in the carrying out of the provisions of this act.

Temperance day.

6. That there shall be one day in each scholastic term of the public schools set apart to be known as Temperance Day when a suitable program shall be prepared to the end that the children of Alabama may be taught the evils of intemperance.

Approved August 19th, 1909.

No. 41)

AN ACT

(H. 15

To repeal an act entitled "An act to exclude from the railroad commission and the members thereof and the attorney general all power, authority or duty to enforce any rates, fares or charges for the transportation of property or passengers which have been or which

may hereafter be prescribed by statute, or made the maximum rates by statutes, or any law now existing or which may hereafter be enacted prescribing such rates, charges or fares, or any rates, fares, or charges which have been or may hereafter be established by the railroad commission's orders establishing the same, and all power and authority to instruct, direct or request the attorney general to institute any legal proceedings to enforce such rates, fares, charges, statutes or orders," approved November 23, 1907.

Sec. 1. Be it enacted by the Legislature of Alabama, That an act entitled "An act to exclude from the railroad commission and the members thereof and the attorney general all power, authority, and duty to enforce any rates, fares, or charges, for the transportation of property or passengers which have been or which may hereafter be prescribed by statute, or made the maximum rates by statute, or any law now existing or which may hereafter be enacted prescribing such rates, charges or fares, or any rates, fares or charges which have been or may hereafter be established by the railroad commission's orders establishing the same, and all power and authority to instruct, direct or request the attorney general to institute any legal proceedings to enforce such rates, fares, charges, statutes or orders," approved November 23, 1907, be and the same is hereby repealed.

Act approved  
Nov. 23, 1907,  
repealed.

Approved August 19th, 1909.

No. 43)

AN ACT

(H. 32

To fix the amount of capital of and deposit with the State Treasurer by miscellaneous insurance companies, excepting mutual aid associations. Be it enacted by the Legislature of Alabama:

1. That in addition to the laws now of force, governing insurance companies generally, insurance companies doing an accident and health, lia-

Capital fully  
paid up of  
\$100,000.

Amount in-  
vested in se-  
curities.

Deposited with  
State Treas-  
urer.

Foreign cor-  
porations to  
satisfy Ins.  
Com. as to or-  
ganization.

Foreign Co.,  
must have on  
deposit with  
proper officer  
at least  
\$100,000.

Certificate of  
official with  
whom securi-  
ties are de-  
posited.

Mutual Aid  
and Indus-  
trial Com-

bility, fidelity, surety, plate glass, steam boiler, burglary and theft, credit, sprinkler, title, fly-wheel, automobile property damage, workmen's collective or any other casualty business, shall be required to have a capital stock fully paid up in cash of not less than one hundred thousand dollars.

2. Every such company organized and chartered under the laws of this State shall be required for better protection of its policy holders and creditors, to keep at all times the sum of one hundred thousand dollars invested in bonds and securities worth not less than the said sum, and subject to the approval of the insurance commissioner, and deposited with the State treasurer, who shall hold such securities in the same manner as is prescribed in section 4575 of the Code of Alabama, 1907.

3. That before any foreign insurance company of the kind described in section one of this act shall be authorized to do business in the State such company must, in addition to complying with all other requirements of law in such cases provided satisfy the insurance commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; that it has on deposit with the treasurer of the State, or with the proper officer of some other State, securities to the actual cash value of at least one hundred thousand dollars, consisting of State bonds, United States bonds, or notes secured by mortgages on real estate for double the amount; all of which securities shall be subject to the approval of the insurance commissioner of this State; and such companies shall file with the insurance commissioner the certificate of the official with whom the securities are deposited, stating the name and amount of each of said bonds, notes, or mortgages and that he is satisfied they are worth at least one hundred thousand dollars, and that the deposit is made with him by the company for the protection of all policy holders and creditors in the United States.

4. That the provisions of this act shall not apply to mutual aid or industrial companies governed by sections 3564 to 3572 inclusive and sec-

tions 3574 to 3588 inclusive of the Code of 1907, <sup>panies ex-</sup>cepted. and to an act to amend sections one (1) and four (4) of an act entitled an act to amend sections 1116 (1547), 1117 (1548), 1118 (1549), 1119 (1550), and 1120 (1551) of the Code of Alabama of 1896, approved February 28, 1903, approved August 9th, 1907.

5. That this act shall be effective upon its ap- <sup>Effective.</sup>proval by the governor.

Approved August 19, 1909.

No. 43½)

AN ACT

(H. 12

To amend section 5520 of the Code.

Section 1. Be it enacted by the Legislature of <sup>Section 5520</sup>Alabama, That section 5520 of the Code be, and <sup>of Code</sup>the same is hereby amended so as to read as follows: 5520 Railroads and common carriers defined. All railroads are public highways, and <sup>R. R.'s public</sup>all railroad companies and persons, firms, com- <sup>highways.</sup>panies, or corporations engaged in the transportation of persons or freight over railroads for hire, and all navigation companies, or steamboat <sup>Navigation</sup>or steam packet companies, and persons, firms, <sup>companies, etc.</sup>companies or corporations engaged in the trans- <sup>common car-</sup>portation of persons or freight by water for hire <sup>riers.</sup>are hereby declared common carriers, and are subject to the provisions of this article.

Approved August 19, 1909.

No. 45

AN ACT

(H. 88

To provide for the consolidation of the various funds in the treasury of the State, and regulating the manner in which appropriations shall be paid out of the consolidated fund. Be it enacted by the Legislature of Alabama,

1. That all the funds now in the State treasury, except such as are regulated by the constitu- <sup>Funds con-</sup>tion of the State of Alabama and by acts of the <sup>solidated; ex-</sup>Congress of the United States, be, and the same are, hereby consolidated into one fund, and all distinctions thereof are hereby abolished and held for naught.

Expense  
charges; how  
paid.

Repeal.

2. Upon the merger of the several special funds, with the exception provided in section one of this act, into the consolidated general fund, the charges and expenses which would otherwise be paid out of such special funds shall be paid out of the consolidated general fund.

3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved August 19th, 1909.

No. 47)

AN ACT

(H. 264

To fix the time of holding the circuit court in the third judicial circuit of the State of Alabama.

Barbour Co.,  
time of.

Bullock Co.,  
time of.

Henry Co.,  
time of.

Russell Co.,  
time of.

Dale Co.,  
time of.

Effective.

Sec. 1. Be it enacted by the Legislature of the State of Alabama, That the circuit court of the third judicial circuit of the State of Alabama shall be held as follows: 1. In the county of Barbour, at Clayton, on the third Monday of February of each year and may continue two weeks, and on the last Monday in August and may continue two weeks. At Eufaula, on the eleventh Monday after second Monday in February, and on the thirteenth Monday after last Monday in August, and may continue three weeks. 2. In the county of Bullock at Union Springs, on first Monday in February and may continue two weeks, and on the last Monday in July, and may continue three weeks. 3. In the county of Henry, at Abbeville, on third Monday after second Monday in February, and on second Monday after last Monday in August, and may continue three weeks at each term. 4. In the county of Russell, at Seale, on the sixth Monday after second Monday in February, and on the fifth Monday after last Monday in August, and may continue two weeks at each term. 5. In the county of Dale, at Ozark, on eighth Monday after second Monday in February, and on the seventh Monday after the last Monday in August, and may continue three weeks at each term.

Sec. 2. That this act shall go into effect on and after January 1st, 1910.

Approved August 19, 1909.

To create the office of county solicitor for Conecuh county, provide for the election of such solicitor by the qualified electors of said county, and to prescribe his qualifications and duties and fix his compensation. Be it enacted by the Legislature of Alabama:

1. That the office of county solicitor for Conecuh county is hereby created. Such solicitor shall be learned in the law, and shall, at the time of his election, be a qualified elector, and a resident citizen of said county of Conecuh, and shall remain so during his continuance in office.

2. That at the general election held in said county of Conecuh on the first Tuesday after the first Monday in November, 1910, and every fourth year thereafter, the qualified electors of Conecuh county shall elect said county solicitor, whose term of office shall be four years, the same beginning on the first day of December after his election, and he shall hold such office until his successor is elected and qualified. Vacancies in the office of such county solicitor shall be filled by appointment of the circuit solicitor, the appointee to hold office for the unexpired term and until his successor is elected and qualified.

3. That it shall be the duty of the county solicitor of said county to represent the State in all cases coming before the county court of said county, to represent the State in all preliminary proceedings, in felony cases, and in all habeas corpus cases where the petitioner is charged with the commission of felony, provided, such preliminary and habeas corpus proceedings are held at the county site. And said county solicitor shall also perform and discharge the duties now required of deputy solicitors under the general laws of the State, and shall be subject to the same liabilities and penalties in respect thereto as are now, or may hereafter, be imposed by law on such solicitors. Said county solicitor shall not defend in any criminal case in any court in said county during his term as such solicitor; and if he has a law partner such partner is hereby prohibited from defending criminal cases in said county.

4. That in each conviction in said county court there shall be taxed against the defendant the same fees as are now taxed by law in similar cases for solicitors fees in the criminal cases in the circuit courts of the State, and said fees, when collected shall be paid to the county treasurer of said county, who shall make a record of the same and shall keep such fees separate and apart from all other funds belonging to said county, and shall not pay out the same other than as hereinafter provided.

5. That such solicitor shall receive as compensation for his services one thousand dollars per annum, to be paid to him in monthly installments by the county treasurer of said county out of the fees taxed against defendants, as provided for in the last preceding section of this act. Provided that the fees so taxed and paid to the county treasurer of said county during the year shall amount to one thousand dollars; but if they do not, then and in that event, said solicitor shall only receive the fees that have been so taxed and paid to the county treasurer of said county. If, at the end of the year, the fees so taxed and paid into the county treasurer of said county shall exceed one thousand dollars, the excess shall be transferred to and become a part of the fine and forfeiture fund of said county, and shall be paid out in the same manner as other moneys belonging to said fund are paid out.

6. That in the event the county solicitor is temporarily absent or disqualified for any cause the judge of the county court of said county shall appoint a solicitor pro tempore, who shall have and exercise all powers of the county solicitor while so acting.

7. That said county solicitor, before entering upon any of the duties of his office, shall take and file the oath of office required of circuit solicitors.

8. That all laws and parts of laws in conflict with the provisions of this act be, and the same are hereby repealed.

Approved August 19th, 1909.



No. 20)

AN ACT

(H. 280)

To abolish the county court of Shelby county of which the judge of probate is ex-officio the judge, and to provide for the transfer of all cases pending in said abolished court to the county court of Shelby county established by this special session of the legislature.

Sec. 1. Be it enacted by the legislature of Alabama, that the county court of Shelby county of which the judge of probate is ex-officio the judge shall be and the same is hereby abolished.

Sec. 2. That all causes pending in said abolished county court shall be, and the same are hereby transferred therefrom to the county court of Shelby county, established by a law of this special session of the Legislature, and it shall be and is hereby made the duty of the Judge of said abolished county court to transfer and deliver to the clerk of said county court of Shelby county, established by this special session of the legislature all affidavits, indictments, warrants, bonds, and other papers, relating to any prosecutions so pending in his court, together also with a certified copy of all entries, which may have been entered upon the docket relating to such transfer cases.

Sec. 3. That all laws and parts of laws in conflict with this act, shall be, and the same are, hereby repealed.

No. 26)

AN ACT

(H. 17)

To amend section 4 of an act, approved November 23, 1907, entitled "An act to amend sections 5, 29, 35, 41 and 52 of an act of the legislature of Alabama, entitled An act to create a railroad commission, to be known as the railroad commission of Alabama, define its duties and powers, and to provide for its mode of procedure, and prescribe penalties for violation of its orders, approved February 23, 1907."

Sec. 1. Be it enacted by the legislature of Alabama, That Section 4 of an Act, approved

November 23, 1907, entitled "An act to amend sections 5, 29, 35, 41 and 52 of an act of the legislature of Alabama entitled "An act to create a railroad commission, to be known as the railroad commission of Alabama, define its duties and powers, and to provide for its mode of procedure, and prescribe penalties for violation of its orders, approved February 23, 1907" be and the same is hereby amended so as to read as follows: Sec. 4. That section 41 of said act be and it is hereby amended so as to read as follows: If any common carrier subject to the supervision and control of the railroad commission, affected by any order of the railroad commission establishing any rule, regulation, practice or service, or establishing any rate for the transportation of property or passengers, or if any such common carrier affected by any rate established by the statute or made the maximum rate by statute, shall fail or refuse to comply with the requirements of the railroad commission with respect to said order, and said failure or refusal shall continue for ten days, or shall fail or refuse to put in force said statutory rate or said rate made the maximum rate by statute, and such failure or refusal shall continue for twenty days, the railroad commission shall have the power to apply in its own name to any court of competent jurisdiction, or to any judge thereof, in any county or circuit in which such common carrier may have an agent, for a writ of mandamus or injunction, or to institute in such court any appropriate proceeding to compel such common carrier to put in force such order or such rate and observe and obey the same. Either party shall have the right to appeal to the supreme court from the judgment or decree of the trial court in such proceedings, said appeal to be taken within thirty days from the rendition of such judgment or decree. If the common carrier desires to take an appeal from the judgment or decree of the trial court and to supercede the same, it shall give, in addition to security for costs, a bond with two sureties, to be approved by the clerk or register of the court, which bond shall be in the amount and with the conditions to be prescribed by the judge or chancellor, and the same shall be payable as prescribed by him

Section 2. That all laws and parts of laws in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

Approved Aug. 20, 1909.

No. 27)

AN ACT

(H. 18

To repeal an act entitled "An Act to make railroad corporations and other common carriers liable in damages to passengers or persons desiring to become passengers for refusing to carry such persons between points in this State at which regular stops are made to take on and let off passengers at the rate or fare which has been or may hereafter be prescribed by statute, or the rate which has been or may hereafter be established by the railroad commission; to authorize actions to recover said damages and prescribe the period within which such actions may be brought and the procedure," approved December 3, 1907.

Sec. 1. Be it enacted by the legislature of Alabama, that an act entitled "An act to make railroad corporations and other common carriers liable in damages to passengers or persons desiring to become passengers for refusing to carry such persons between points in this State at which regular stops are made to take on and let off passengers at the rate or fare which has been or may hereafter be prescribed by statute, or the rate which has been or may hereafter be established by the railroad commission; to authorize actions to recover such damages and prescribe the period within which such actions may be brought and the procedure," approved December 3d, 1907, be and the same is hereby repealed.

Approved Aug. 20, 1909.

No. 29)

AN ACT

(H. 20

To repeal "An Act to authorize the recovery of damages by any person who has been ejected from any regular passenger train, of any

railroad in this State for refusal to pay a greater or higher rate of fare than that prescribed by statute or by the railroad commission and to prescribe the period within which such action may be brought," approved December 3, 1907.

Sec. 1. Be it enacted by the legislature of Alabama, that an Act entitled "An act to authorize the recovery of damages by any person who has been ejected from any regular passenger train of any railroad in this State for refusal to pay a greater or higher rate of fare than that prescribed by a statute, or by the railroad commission, and to prescribe the period within which such action may be brought," approved Dec. 3, 1907, be and the same is hereby repealed.

Approved Aug. 20, 1909.

No. 30)

AN ACT

(H. 16

To repeal an Act entitled "An act to prohibit railroads and other common carriers, or terminal companies, or other companies or persons controlling access to passenger trains from preventing access to regulate trains carrying passengers by the use of fences, gates, bars, or by any means whatsoever by any person desiring to take passage on said train between points within this State when such person has offered to purchase a ticket at the rate prescribed by statute, or fixed by the railroad commission, and the sale of such ticket at such rate has been refused; to prescribe the penalty for violations thereof, the period within which proceeding may be instituted to recover such penalties, and the procedure for the recovery of the same," approved Dec. 3, 1907.

Sec. 1. Be it enacted by the Legislature of Alabama that an Act entitled "An act to prohibit railroads and other common carriers, or terminal companies, or other companies or persons controlling access to passenger trains from preventing access to regulate trains carrying

passengers by the use of fences, gates, bars or by any means whatsoever, by any person desiring to take passage on said trains, between points within this State, when such person has offered to purchase a ticket at the rate prescribed by statute or fixed by the railroad commission, and the sale of such ticket at such rate has been refused; and prescribe the penalty for violations thereof, the period within which proceedings may be instituted to recover such penalties and the procedure for the recovery of the same," approved Dec. 3, 1907, be and the same is hereby repealed.

Approved Aug. 20, 1909.

No. 31)

AN ACT

(H. 11

To amend an act entitled "An act to prohibit common carriers and their officers, agents and employees, from publishing, exacting charging or receiving any higher or greater rates of compensation for the transportation of property or passengers than that specifically designated and prescribed by statute, or made the maximum rate by statute, or than that established by the railroad commission, and from refusing to receive property or passengers from transportation at such rates; to provide penalties for a violation thereof, and fix the period in which proceedings may be instituted for the recovery of such penalties, and the procedure to recover the same," approved November 23, 1907.

Section 1. Be it enacted by the legislature of Alabama, That an act entitled "An act to prohibit common carriers and their officers, agents and employees, from publishing, exacting, charging or receiving any higher or greater rate of compensation for the transportation of property or passengers than that specifically designated and prescribed by statute, or made the maximum rate by statute, or than that established by the railroad commission, and from refusing to receive property or passengers for transportation at

such rates; to provide penalties for a violation thereof, and to fix the period within which proceedings may be instituted for the recovery of such penalties, and the procedure to recover the same," approved November 23, 1907, be and the same is hereby amended so as to read as follows:

"Sec. 1. Be it enacted by the legislature of Alabama, that in all cases where the maximum rate of compensation for the transportation of property or passengers by any common carrier between points in this State has been or may hereafter be specified designated and prescribed by statute, or any prevailing rates for such transportation have been or may hereafter be by statute made the maximum rates, or such rates have been, or may hereafter be established by the railroad commission of Alabama, it shall be unlawful for any common carrier, its officers, agents, or employees to publish, exact, charge or receive any higher or greater rate than that prescribed by statute, or than that which has been made the maximum rate by statute, or than the rate prescribed by said railroad commission for the transportation of such property or passengers, or to refuse to receive property or passengers for transportation at such rates."

"Sec. 2. Every common carrier which shall violate any of the provisions of this act shall forfeit to the State of Alabama a sum not exceeding one hundred dollars for each offense to be determined by the court or judge trying the case.

"Sec. 3. Each exaction, charge or receipt of a fare for the transportation of a passenger or of a rate or compensation for the transportation of property, in excess of the statutory rate or fare, or the rate or fare established by the railroad commission, and each refusal to receive any property or passenger for transportation at such rates, shall be a separate and distinct offense; and the act of any officer or other person acting for or employed by any common carrier, acting within the scope of his official duties or employment, in exacting or charging such excess rate or fare shall be, in every case, and be deemed to be, the act of such common carrier. "Sec. 4. Every officer, agent or employee of such common carrier, who shall violate, or who procures, aids

or abets any violation of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not exceeding one hundred dollars, for each offense, to be determined by the court or judge trying the case. Sec. 5. A civil action to recover the forfeitures provided for in section 2 of this act may be brought at any time within two years from the date the offense was committed or forfeiture was incurred in the name of the State of Alabama, in any court of competent jurisdiction in any county in which the carrier is engaged in business. In such action any number of forfeitures incurred up to the time of commencing the same and not previously recovered may be sued for and recovered, or separate suits may be brought for each penalty or forfeiture, and the commencement of an action to recover a forfeiture shall not be, or be deemed to be a waiver of the right to recover any other forfeitures."

Sec. 2. That all laws and parts of laws in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

Sec. 3. This act shall go into effect and be operative immediately upon its approval.

Approved Aug. 20, 1909.

No. 50)

AN ACT

(H. 30

To prohibit and punish unlawfully and knowingly permitting live stock to run at large in stock law districts or territory in which such stock are prohibited by law to run at large; to provide that all fines assessed shall be paid in money, and that one-half thereof shall be paid to the injured party; to confer jurisdiction to try, convict and punish persons unlawfully and knowingly permitting live stock to run at large in stock law districts or territory where such stock are prohibited by law to run at large, upon justices of the peace and notaries public exercising the powers of justices of the peace; to dispense with grand juries: and to provide for prosecutions and convictions for violations of the term of this act under affidavit and warrant or information, and without indictment.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be a misdemeanor for any person or persons who own or have in possession, custody or control any live stock unlawfully and knowingly to permit such stock to be or run at large in any stock law district or territory in which such stock are prohibited by law to run at large.

Section 2. Be it further enacted, That any person or persons owning or having the possession, custody or control of any live stock who unlawfully and knowingly permit the same to run or be at large in any stock law district or territory wherein live stock are prohibited by law to run at large, upon conviction thereof shall be fined not less than double the damages sustained by the injured party or parties, but in no case more than fifty dollars, one-half the fine to go to the injured party or parties, the fine to be paid in lawful money of the United States; and may also be imprisoned in the county jail, or sentenced to hard labor for the county for a term not exceeding six months, at the discretion of the court or jury trying the case.

Section 3. Be it further enacted, That justices of the peace and notaries public exercising the powers of justices of the peace shall have jurisdiction to try, convict and punish persons violating the provisions of this act, but their jurisdiction shall not be exclusive.

Section 4. Be it further enacted, That grand juries are dispensed with as to prosecutions for violations of this act, unless the State shall elect to begin such prosecution by indictment; and that prosecutions for violations of the provisions of this act may be instituted and conducted to final disposition before justices of the peace, notaries public, exercising the powers of justices of the peace, and such other inferior courts as are or may be established, by law with jurisdiction of misdemeanors, without indictment, and upon affidavit and warrant or information; and when so begun, the defendant shall not be entitled to demand indictment.

Section 5. Be it further enacted, That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Approved August 19, 1909.



No. 54)

AN ACT

(H. 149)

To appropriate an additional sum of twelve thousand dollars (\$12,000.00) for public printing and binding for the fiscal year ending September 30, 1909, and to appropriate the additional sum of ten thousand dollars (\$10,000.00) for public printing and binding for fiscal year ending September 30, 1910.

Section 1. Be it enacted by the Legislature of Alabama, That the additional sum of twelve thousand dollars (\$12,000.00) or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, for public printing and binding for the fiscal year ending September 30, 1909. And the additional sum of tenthousand dollars (\$10,000.00), or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, for public printing and binding for the fiscal year ending September 30, 1910.

Approved Aug. 20, 1909.

No. 55)

AN ACT

(H. 279)

To amend section 1867 of the Code of Alabama of 1907.

Section 1. Be it enacted by the Legislature of Alabama, That section 1867 of the Code of Alabama be so amended as to read as follows: A matriculation fee of not more than two and one-half dollars to be fixed by the county board of education in which a county high school is or may hereafter be located and in operation, may be charged to each student entering said high school. to defray the necessary expenses of said high school during each term, provided a part of the matriculation fees may be used for library purposes in said high school. All funds accruing from fees as provided herein, shall be paid out by the treasurer of the high school upon order from the principle of said school.

Section 2. Be it further enacted, That all laws and parts of laws in conflict with this act or any part of it, are hereby repealed.

Approved August 19, 1909.

No. 57)

AN ACT

(H. 161

To amend section 1989 of the Code of Alabama. Be it enacted by the legislature of Alabama: That Section 1989 of the Code of Alabama, be amended so as to read as follows: 1989. Payment of warrant to district trustees. Whenever it shall be shown to the satisfaction of the county superintendent of education that the erection or repair of a public schoolhouse has been commenced and the amount of subscription or donation secured and a deed has been executed, conveying to the State of Alabama for the benefit of said district, the lot or parcel of land on which said public school-house is being erected or repaired, or the surface and surface rights therein free of encumbrance or lien, the county superintendent shall endorse and deliver to the district trustees said warrant and the amount or sum of money named in the same shall be paid to said trustees or to their successors in office, the proceeds of which shall be applied by the trustees to the building or repairing of the public school-house for which such warrant was issued.

Approved Aug. 20, 1909.

No. 58)

AN ACT

(H. 256

To make an additional appropriation of Sixty Thousand Dollars for feeding prisoners in county jails.

Section 1. Be it enacted by the legislature of Alabama that the sum of sixty thousand dollars or so much thereof as is necessary be and the same is hereby appropriated out of any moneys

in the treasury not otherwise appropriated for the feeding of prisoners in the county jails of the State for the fiscal years ending September 30, 1909, and September 30, 1910, respectively.

Section 2. That the sum of thirty thousand dollars of the above appropriation or so much thereof as may be necessary is made for the fiscal year ending September 30, 1909, and thirty thousand dollars or as much as may be necessary for the fiscal year ending September 30, 1910. That the above appropriation is made in addition to appropriations heretofore made and does not in any way repeal or effect former appropriations made for this purpose.—This appropriation shall be paid by warrants of the auditor on the State treasurer to the Sheriffs as feed bills are now paid.

Approved Aug. 20, 1909.

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No. 72)

AN ACT

(H. 281

To establish a county court for the county of Shelby.

Section 1. Be it enacted by the Legislature of Alabama, That there is hereby established in and for said county of Shelby, an inferior court of law and equity, which shall be called the "County Court of Shelby county," and which shall have and exercise in said Shelby county all the jurisdiction and powers which are now, or may hereafter be conferred by law on the several circuit and chancery courts of the State, as well as those now conferred upon the present county of Shelby under the existing laws and statutes of this State. In exercising the jurisdiction and powers of courts of law, said "County court of Shelby county" shall conform to the rule of procedure and practice in the circuit courts of the State, and when exercising the powers and jurisdiction of the courts of equity, it shall conform to the rules of procedure and practice in the chancery courts of the State, except when such rules, procedure and practice are changed by this act: Provided, that the presiding judge shall have the power to make and adopt such rules of practice

not inconsistent with the general rules of practice and the statutes of Alabama, as may be required by a proper system of city court practice, and he may amend the same as be expedient; such rules shall be entered upon the minutes of said court and the same may be changed or amended by the supreme court of the State.

Section 2. That a judge of said county court shall be appointed by the governor of the State within fifteen days after the approval of this act, whose term of office shall be six years from the date of his appointment, and in like manner said judge's successor shall be appointed every six years thereafter. The judge so appointed by the governor, as herein provided, shall take the oath of office as required by law to be taken by judges of the circuit courts, and shall be removed from office for the same causes and in the same manner as judges of the circuit courts. He shall have and exercise all the jurisdiction and powers which are or may be hereafter lawfully exercised by judges of the circuit courts, and chancellors of the State, including authority to issue writs of injunction, prohibition, certiorari, mandamus, habeas corpus, ne exeat, and all other remedial writs returnable to any courts in this State.

Section 3. That judge of said county court shall be a citizen of Shelby county at the time of his appointment, and during his continuance in office, shall reside in said county, and at the time of his appointment, shall have been a citizen of the State for a period of five years next preceding his appointment, and shall not be less than twenty five years of age, and learned in the law. Vacancies in the office of the judge of said county court, shall be filled by the governor, and the person appointed shall hold said office during the unexpired term of his predecessor, and until his successor shall be appointed and qualified.

Section 4. That a clerk of said "County court of Shelby county" shall be appointed by the judge thereof, who shall hold office during the term of the judge appointing him, and who shall, on equity side of said court, discharge the duties which now devolve upon the registers in the chancery courts, of this State. Such clerk shall

have all the powers and be liable to perform all the duties and shall be subject to the same pains and penalties as registers in chancery in the State with regard to all business coming into said "County court of Shelby county" on the equity side thereof, and shall be entitled to the same fees as are may be allowed the registers in chancery for like services, and the same shall be collected as such fees are collected in the chancery courts. Such clerk shall, on the law side of said "County court of Shelby county," discharge all the duties which now devolve upon clerks of circuit courts, and shall have all the powers and be liable to perform all the duties and shall be subject to all the pains and penalties as the clerks of the circuit courts of this State with regard to all business coming into said county court on the law side thereof, and shall be entitled to the same fees as are or may be allowed the clerks of the circuit courts of the State for like services, and the same shall be collected as such fees are collected in the circuit court. And such clerk so appointed shall give bond in the sum of \$10,000 as such clerk, conditional upon the faithful performance and discharge of the duties of said office during his continuance therein.

Section 5. That the judge of said court herein established shall receive as a salary the sum of two thousand dollars per annum, payable on his order on the county treasurer of Shelby county monthly, at the end of each month, and such claims shall be a preferred claim against the county.

Section 6. That there shall be appointed a solicitor for said county, whose term of office shall continue for six years and until his successor is appointed and qualified; such solicitor shall be appointed by the governor of the State within fifteen days from the approval of this act, and the subsequent appointment shall be made by the governor of the State on or before the expiration of the term of office of the incumbent, to take effect upon such expiration, such appointment shall not be made exceeding fifteen days before the time of office for which the incumbent was appointed shall expire. In the

event of the death of such solicitor, or his resignation, or removal from office, the governor shall appoint his successor, who shall hold office during the unexpired term of the appointee. Such solicitor shall be learned in the law, and at the time of his appointment shall be a citizen of Shelby county, and shall remain so during his continuance in said office. Said solicitor shall be charged with the performance of the same duties in said court, and subject to the same liabilities and penalties in respect thereto, as by law are imposed upon circuit solicitors in like cases in the circuit courts of the State, and said solicitor shall receive for his compensation for such services the sum of two thousand dollars per annum: Provided, that the same fees as are taxed by law for solicitor's fees in criminal cases in the circuit courts of the State shall be taxed and collected in said "County court of Shelby county" in the same manner as such fees are taxed and collected in circuit courts, and such fees shall be paid into the county treasury of Shelby county. The salary of said solicitor shall be payable monthly upon warrants drawn by the judge upon the county treasurer, and such salary shall be a preferred claim. He is to take a like oath as circuit solicitors. In case of sickness, or in case of any disqualification of said solicitor, except as herein otherwise provided, the judge of said court shall appoint a solicitor pro tempore, who shall perform the duties of solicitor during such sickness or other disqualification of the regular solicitor, and such solicitor pro tempore shall receive such compensation as the regular solicitor would have received for said services, which compensation is to be paid upon the warrant of the judge of said court in the same manner as the compensation of the regular solicitor is paid.

Section 7. That said Court shall be held at the court house of Shelby county. That said court shall hold two regular terms in each year, the first beginning on the first day of January and continuing until the first day of July of each year, and the second term beginning on the first day of July and continuing until the first day of January of each year. During the regular

term of said court, the judge thereof may take such recesses and adjourn from time to time as <sup>Recesses.</sup> may to him seem proper. Provided, that if the judge of said court shall fail to attend at the beginning of any term of said court, or the terms <sup>Failure of judge to attend.</sup> of the court should not begin, for any cause, that then the court shall stand adjourned from day to day, until the judge does attend.

Section 8. That there shall be four jury terms <sup>Jury terms; when held.</sup> in said court each year, one to commence on the second Monday in March, one on the second Monday of June, one on the second Monday of September and the other on the second Monday of December, and the said jury terms may continue for three weeks, or until the business of the court shall have been disposed of, and that grand <sup>Grand juries, how drawn.</sup> juries and petit juries for the trial of causes in said court shall be drawn by the judge and the clerk of said court in the same manner as is now provided by law for drawing juries for the circuit court of said county; said juries shall be drawn at least twenty days before the first day on which they are to serve, and they shall be summoned as is or may hereafter be provided by law, for summoning and impaneling such juries in the circuit court, and the said "County court, of Shelby county" shall have the same power and authority to order special venires and to sum- <sup>Special venires; tales juries.</sup> mon, swear and impanel tales juries as the circuit courts of the State; Provided, That the juries for the trial of capital cases shall be <sup>For capital cases.</sup> drawn, summoned and impaneled as is now or may be hereafter provided by law for drawing, summoning and impaneling juries for the trial of capital cases in the circuit courts of the State, except that the drawing of all juries under any section of this act shall be by the judge and the clerk of said court; Provided that grand juries shall be summoned to attend said court on the <sup>Time of grand juries.</sup> second Mondays of February and August in each year, when they shall be organized and empaneled and may continue in session until the business before them is disposed of, not however, to exceed three weeks at any one term; Provided further, That on the request of the judge of said court, the probate judge of the said county of Shelby shall deliver the jury box of said county

Challenge of  
jurors.

Judge of court  
may order  
special grand  
jury.

May order  
special petit  
jury.

Must plead or  
demur within  
30 days after  
service.

to such judge and clerk for the purpose of drawing juries as hereinabove in this and other sections provided. The challenge of jurors shall be the same as now or as hereafter may be provided by law in the circuit courts of the State, and all law applicable to jurors and juries in the circuit courts of the State shall apply equally to this court, except as otherwise provided in this act; Provided further, That whenever in the opinion of the judge of said court it is necessary to organize a grand jury for the investigation of any capital offense or any homicide, or any assault with intent to ravish, committed in said county, the judge of said court may by an order made and entered on the minutes of said court, order a special grand jury, drawn and summoned for that purpose, and may organize, impanel and charge such special grand juries, and said grand jury shall proceed at once to investigate the matter for which it was organized, after which it shall adjourn; and the judge may in like manner order a special petit jury drawn and summoned for the purpose of trial of the person indicted by said special grand jury, and may proceed to organize and impanel such special petit jury to try such cause at any time he may deem such proceedings necessary.

Section 9. That in all civil cases at law in said "County Court of Shelby County" the defendants therein shall be required by the summons therein served upon them to appear, plead or demur to the complaint within thirty days after such service of summons and complaint upon them, whether such service shall be executed in term time or vacation. In cases commenced otherwise than by suing out and service of summons and complaint, defendants shall appear, plead or demur within thirty days after perfection of service, notice or publication upon them, whether the same shall occur in term time or vacation, and in all cases after thirty days from such service, notice or perfection of publication, such cases shall be at issue and triable when the same shall be reached on the regular call of the docket. Any defendant failing for more than thirty days after such service, notice or perfection of publication in any cause to appear therein, plead or



demur, shall be held to be in default and judgment by default may be rendered against him upon motion of plaintiff or his counsel, at any time thereafter; Provided, that for good cause shown the judge of said court may allow pleas or other defenses to be filed after thirty days on such terms as he may think just; Provided further, however, that the judge shall have no authority to allow pleas or other defenses to be filed after thirty days from the perfection of service on the defendants, except by the consent of the opposing party, or unless such pleas or other defenses are accompanied by an affidavit made by the defendant or his attorney of record, that in belief of the affiant the defendant has a meritorious defense to the cause of action asserted in the complaint, and that such pleas or other defenses are not interposed for delay. When such affidavit is made, it shall be within the discretion of the judge whether he will allow such default on judgment to be opened or not, and he may impose such terms with reference to the cost of a case, as to him may seem proper.

Section 10. That in all civil cases at law in said Court, the issue and question of fact shall be tried by the Court without the intervention of a jury unless a jury be demanded by the plaintiff at the commencement of the suit, by endorsing such demand on the summons and complaint or other original process, or by the defendant or other party at his appearance by endorsing such demand in writing on the plea or demurrer or other pleadings; Provided, That when a cause is transferred to said "County court of Shelby county" by appeal or otherwise from a justice court, or transferred from the circuit or chancery courts the demand for a jury shall be made at the time of the application of such transfer, and the failure to demand a jury as above directed shall be deemed and held a waiver of the right to trial by jury. And provided further, That when a cause shall have been tried without the intervention of a jury and a new trial granted by the court, or when the same shall have been reversed and remanded by the supreme court, that either party to the cause may demand a jury, provided such

demand is made at the first sounding of the cause thereafter; Provided, that when no demand is made by the party taking an appeal from a justice court or other inferior tribunal, to said "County Court of Shelby County" as herein provided, or when any cause is brought to said court by certiorari, the opposite party may within ten days after notice served on him, demand a trial by jury, by filing said demand in writing with the clerk of said court.

Trial of misdemeanor cases.

Section. 11. That in the trial of each misdemeanor case the judge of said "County Court of Shelby County" shall try both the law and the facts, except when trial by jury is demanded by the defendant in writing and filed with the clerk of said court within thirty days after he is arrested, or taken in custody, or after the court herein established has taken jurisdiction of said cause; Provided the sum of \$5.00 shall be taxed as cost in cases of conviction of misdemeanors and felonies, and said sum when collected shall be paid into the county treasury of Shelby county, and be placed to the general funds of the County; provided, that any person charged with the commission of a misdemeanor may be tried in said "County court of Shelby county" upon information, and the proceedings in such case shall be the same as now provided by law for trials upon information in the county courts under the general laws of this State except that no appeal shall lie in such case to the circuit court.

Section 12. That all criminal causes, now or hereafter pending in the circuit court of Shelby county, may, on the agreement of the defendant or his counsel, and the solicitor of the circuit court, be transferred to this court for trial; and that all civil causes, now or hereafter pending in the circuit or chancery courts of Shelby county, may, on agreement of all parties, or their attorneys, be transferred to this court for trial. Such agreement must be in writing and filed with the clerk or register of the circuit or chancery court, whereupon such officers shall certify and transfer such papers to the docket of this court, and file therein all the original papers, together with

certified copies of all docket and minute entries in said causes, and thereupon this court shall acquire exclusive jurisdiction of such causes so transferred; Provided, that, on the removal of said causes to this Court from the circuit court or chancery court a jury shall be considered waived, unless a jury is demanded at the time of agreement or transfer of such cause by some one of the parties or the attorneys to the cause.

Section 13. That this court herein established shall have exclusive jurisdiction of all appeals from inferior courts of the county of Shelby of cases where appeals may under the law now or hereafter existing be taken from the inferior courts to the circuit court of said County, and justice of the peace of said county shall bind any person over for his appearance to answer any indictment for any charge to be preferred by the grand jury of said county court or in any other case in which justices of the peace, or other officers, may by law bind any person to appear and answer any charge in the circuit court, and all officers authorized to issue warrants of arrest in Shelby county shall make said warrants issued returnable into the Court herein established, except warrants issued on indictments in the circuit court, and warrants issued returnable before the officer issuing same.

Section 14. That all garnishments issued from said court shall require an answer there- to within thirty days after the service thereof; and upon a failure of any garnishee to make answer within thirty days he shall be deemed in default and a judgment nisi may be rendered against him upon motion of the plaintiff if the plaintiff is otherwise entitled to such judgment nisi, and unless otherwise ordered by the court, all citations, rules, writs of scire facias and notices issuing from said court shall require the party against whom they are issued to appear and plead within thirty days after the service thereof, if the citations or notices are given by publications within thirty days after the perfection of service by publication; and all cases whether commenced by summons and complaint, attachment or otherwise, shall be deemed and

Jurisdiction  
of appeals  
from inferior  
courts.

Garnish-  
ments require  
answer with-  
in thirty days.

taken to be at issue and triable upon the appearance of the defendant and his pleading, or if he does not appear within thirty days after the perfection of service upon him, at the end of such thirty days.

Section 15. That all cases brought by appeal or certiorari from justices of the peace or other inferior courts to said "County Court of Shelby County" shall stand for trial when reached on the regular call of the docket at any time after thirty days notice of the taking of such appeal shall have been given to the adverse party, as required by law.

Process notice, etc., executed instant.

Section 16. That all original and mesne process notices, citation, and writs of scire facias, shall be executed instant, and unless otherwise provided by law shall be returnable immediately upon the execution thereof by the officer executing the same, and all executions, writs of fieri facias, writs of venditioni, exponas, issuing from said court shall be made returnable ninety days after the issuance thereof.

Section 17. That in the trial of any cause at law without a jury in the said "County Court of Shelby County" in addition to the question which may be under existing laws presented to the supreme court for review, either party may by a bill of exceptions also present for review the conclusions and judgment of the Court on the evidence, and the supreme court shall review the same without any presumption in favor of the court on the evidence, and if there be error shall render such judgment in the cause as the court below should have rendered, or reversed and remand the same, for further proceedings as the supreme court shall deem right.

Section 18. That appeals or certiorari may be taken to said court herein established from the judgments of justices of the peace or other inferior courts in the county of Shelby in all civil cases in which appeals or writs of certiorari may by law be taken from such judgments to the circuit court of said county, and in the same manner.

Supreme court has appellate and

Section 19. That the supreme court of this State shall have appellate and supervisory jurisdiction over said court and the judge thereof,

which may be exercised in the same manner and in the same cases as such jurisdiction may be exercised over the circuit court or the judges thereof; and appeals may be taken from the judgments, orders and decrees of said court to the supreme court in the same manner, within the same time, and in the same cases as appeals are taken from judgments, orders or decrees of the circuit court to the supreme court.

Section 20. That after ten days from the rendition of any judgment unless otherwise directed in said judgment, the clerk of said court shall issue execution, returnable as hereinbefore provided. Provided, however, that nothing herein contained shall prevent any person from having execution issued, within said ten days upon making affidavit as now provided by law, in relation to the issue of execution upon judgments of the circuit court; and provided further, that nothing herein contained shall prevent the superseding of execution after the issue thereof, upon filing as now required by law.

Section 21. That all laws of general nature now in force or that may hereafter be enacted giving jurisdiction to the circuit and chancery courts, shall be held to extend and apply to said County Court, although the said court may not be mentioned therein, unless the contrary be expressly provided and unless they are contrary to the provisions of this act.

Section 22. That all bills of exceptions relating to the trial causes, civil and criminal, in said court, must be signed by the presiding judge of said court within the time now or hereafter provided by law.

Section 23. That final judgments and decrees rendered in said court shall, after the expiration of thirty days from their rendition be taken and deemed as completely beyond the control of the court, as if the term of said court at which said judgments and decrees are rendered, had ended at the end of said thirty days; provided, however, that nothing herein contained shall prevent parties from applying for a new trial or rehearings within thirty days or destroy or change the effect of motions for new trials or rehearings when so

supervisory  
jurisdiction  
over said  
court.

Clerk shall is-  
sue execution  
after ten days  
from judg-  
ment.

bills of excep-  
tions signed.

made, or shall prevent parties from applying to said court for a rehearing, under the statute authorizing applications for rehearings, in the circuit court or shall prevent the court from retrying any cause under the Code of Alabama, or shall prevent the court from the exercise of any power or jurisdiction conferred upon the circuit court touching final judgments or the chancery court touching final decreed.

**Witnesses.**

Section 24. That all witnesses in attendance upon said court must prove their attendance within five days after the termination of the trial of the cause in which they were subpoenaed or called to testify, and unless they prove their attendance within that time, their fee shall not be taxed as costs, nor shall they be recoverable against either party.

Section 25. That the venue in any cause in said court may be changed to other counties than Shelby under the same rules and regulations that govern changes of venue in the circuit courts of this State.

**Sheriff required to attend court in person or by deputy.**

Section 26. That the sheriff of said county shall be in person or by deputy required to attend said Court, preserve order, and execute and return its process, and perform such other duties in all respects as in the circuit and chancery courts of this State, and he shall furnish all subordinate officers that may be necessary to expedite the business of said court the same as he is now required to do under the law governing him as officer of the circuit and chancery courts of this State, the fees of the officers of said court for services rendered, and the compensation of jurors and witnesses therein shall be the same as are or may be allowed for like services in the circuit and chancery courts of this State.

Section 27. That in all civil cases at law this court may set down any causes for hearing on the pleadings alone, and render judgment thereon, and error may be assigned on such judgment on appeal taken after the final determination of the cause, but in all jury cases, unless such pleadings have been settled theretofore, the court must take the week immediately preceding each jury term for the settlement of the pleadings in such cases, and must

see to it that the issues are made up before the first day of the jury term; Provided, that nothing contained herein shall prevent the court from extending the time of settling the pleadings, when in its judgment it is proper to do so, but in all such cases, the judge shall have the right to impose such terms as seem to him proper, before granting such extension of time for settlement of pleadings.

Section 28. That all cases of misdemeanor returned by justices of the peace or appeals from the justices of other courts of said county to the said county court, shall be tried upon the complaint of the solicitor, filed in the cause, which complaint shall be in the form and of such sufficiency as required by law and shall be subject to amendment.

Section 29. That all the expenses of said county court, not otherwise specially provided for by this act, shall be paid out of the general fund of the treasury of Shelby county, in the same manner and on the same conditions, as the expenses of the Circuit courts are paid.

Section 30. That all sales of real or personal property made under the orders and decrees of said county court, shall be made under the same rules and regulations that sales from the Circuit and chancery courts are made in this State.

Section 31. That the judge of said court shall, as soon as he is appointed and qualified, proceed to open and organize said court without delay, and conduct the business of the first term thereof.

Judge shall  
open court as  
soon as ap-  
pointed.

On the first Monday in each month the court shall sound the docket for the purpose of setting down for trial all non-jury cases, and for the settlement of the pleadings in jury cases, and whenever practicable, he shall require the pleas in non-jury cases to be settled on a day previous to the day on which they are set down for trial.

Section 32. That whenever it shall be necessary to draw any grand jury or petit jury, regular or special, for said "County court of Shelby county," and the jury box of said County shall be empty, or not have sufficient names therein to complete such jury, said court may by order made and entered on the minutes of the court, direct the sheriff to summons such jury, or suffi-

cient jurors to complete the same, as the case may demand, from the qualified citizens of Shelby county, and such jurors so summoned and impaneled, shall constitute the jury for which they are summoned and impaneled as if they had been regularly drawn from the jury box.

Disposition of  
fines and for-  
feitures.

Section 33. That the fines and forfeitures from said "County Court of Shelby County" shall be collected and disposed of in the same manner as fines and forfeitures from the circuit court of said county, except in cases where otherwise provided by this act.

Effective.

Section 34. The provisions of this act are to take effect from the approval of the same. Provided all causes now pending in the present county court be, and the same hereby are, transferred to the "County court of Shelby county" herein established. Provided, the clerk of said court herein established shall be entitled to, and the clerk of the present county court shall transfer and file in the "County court of Shelby county" herein established, all the original papers in such causes together with certified copies of all minute and docket entries in said causes, and thereupon this court herein established shall have exclusive jurisdiction of such causes.

Clerk.

Section 35. That the present clerk of the circuit court of said county shall be ex-officio clerk on the law side and the present Register in chancery of the chancery court of said county shall be ex-officio clerk on the equity side of said "County court of Shelby county" until the expiration of their respective present terms as clerk of said circuit court and register of said chancery court.

Section 36. That all laws, and parts of laws, in conflict with the provisions of this act be, and the same are hereby repealed.

Approved Aug. 20, 1909.

No. 34)

AN ACT

(S. 49

To provide that all confederate soldiers, sailors, and their windows who are entitled to draw a pension under the laws of Alabama, shall



be entitled to and receive a pension of the first-class when they are or shall become eighty years of age.

Section 1. Be it enacted by the Legislature of Alabama, That all confederate soldiers, sailors, <sup>Pension 1st class 80 years of age.</sup> and their widows who are entitled to draw a pension under the laws of Alabama, and are on the pension roll or may hereafter be placed thereon, shall be entitled to and receive a pension of the first-class, and be classed as pensioners of the first-class when they are or shall become eighty years of age.

Section 2. That proof of the age prescribed in <sup>Proof of age; how made.</sup> section 1 may be made at any time by the affidavit of any competent witness taken before or certified by the probate judge of any county (or any officer authorized to administer oaths), and then so made by the judge of probate shall immediately forward same to the State auditor and the said auditor shall forthwith place such person on the pension roll of the first-class.

Section 3. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved August 19th 1909.

No. 53)

AN ACT

(H. 207

To amend section 929 of the Code of 1907. Be it enacted by the Legislature of Alabama That section 929 of the Code of 1907 be amended so as <sup>What constitutes Alabama National Guard.</sup> to read as follows: Section 929 (2852). Alabama National Guard; The Governor Commander-in-Chief.—The active volunteer organized military forces of the State of Alabama shall constitute and be known as the Alabama National Guard, and may consist of not more than one division, and the governor of the State shall be commander-in-chief thereof. The organization, armament and discipline of the Alabama National Guard shall be the same as that which is now and may hereafter be prescribed for the regular and volunteer armies of the United States. The <sup>Publication of orders.</sup> commander-in-chief, from time to time, shall make and publish such orders as may be neces-

Governor may  
organize naval  
reserve.

sary to conform such Alabama National Guard in organization, armament and discipline, to that prescribed for the army of the United States, and such orders, when duly made and published, shall have the force and effect of law. The governor, in his discretion, may organize a naval reserve in accordance with the rules and regulations prescribed therefor by the United States government, and may commission the officers thereof. he governor shall have the power, whenever the good of the service requires it, to suspend any commissioned officer, or to remove and cancel his commission.

Approved August 20, 1909.

No. 59)

AN ACT

(H. 300)

To amend section 3488 of the Code of Alabama of 1907.

Corporations  
authorized to  
construct and  
operate water  
works.

Be it enacted by the Legislature of Alabama, That section 3488 of the Code of Alabama of 1907 be, and the same is hereby, amended to read as follows: 3488. Waterworks companies may acquire rights, riparian rights, lands, etc. Corporations authorized to construct and operate waterworks for the supplying of cities, villages, towns and their inhabitants, or others living or doing business in the vicinity of them, with water, shall have the power, in order to obtain a supply of water for their storage ponds, reservoirs, pipes and canals, to take over and use, after condemning the same, water of any river or stream or spring or other water source which may be necessary for them to use for such purpose; and may also acquire by condemnation riparian rights and all such lands adjacent to such streams or water sources as shall be necessary to protect and preserve the purity of such supply, and shall also have the power to condemn rights of way and sites of any necessary area for pipe lines, ditches, canals, dams, storage ponds, reservoirs and other necessary purposes for the operation of their water works and the collection and distribution of the water supply, and for this purpose said companies may institute ad quod damnum proceedings against the riparian land

Companies  
may institute  
proceedings

owners or owner along such river or stream or of other sources or the owner of any lands wherever located desired to be used for any of the purposes above mentioned, in the probate court of the county in which the land on or over which the easements sought to be condemned are situated in accordance with the general laws of this State providing for the condemnation of lands for public purposes. The power of condemnation herein given shall include the right to condemn, wherever necessary, for any of the purposes herein before mentioned, any yard or curtilage of a dwelling house, garden, stable, lot or barn, or so much thereof as may be necessary; and whenever the ownership of the mineral interest in lands has been severed from the ownership of the surface, and the mining of the minerals would endanger any proposed canal, storage pond or reservoir said water companies may institute ad quod damnum proceedings against the owner or owners of the minerals situate under the proposed canal, reservoir or storage ponds in the probate court of the county in which the lands are situated in accordance with the general laws of the State, condemning said mineral interests or so much thereof as may be required for the support of the surface where said canal, reservoir or storage pond is to be located. All laws and provisions of law in conflict or inconsistent with the provisions of this act, to the extent to which they are in conflict or inconsistent with the provisions of this act are hereby repealed.

against riparian land owners, etc.  
Right to condemn any yard etc.  
Condemnation mineral interests, support of surface of canal, etc.  
Repeal.

Approved August 20, 1909.

No. 63)

AN ACT

(S. 56

To amend section 70 of the Code of Alabama, of 1907.

Be it enacted by the Legislature of Alabama, That section 770 of the Code of Alabama, 1907, be and the same is hereby amended so as to read as follows: 770. Counties exempt from provisions of article. None of the provisions of this article relating to the work of cattle tick eradication shall apply to or be put in force in a county where the majority of its area is not under a stock law, or a law prohibiting cattle from running at large.

Counties exempt from provisions of.

Approved August 20, 1909.

No. 111)

AN ACT

(H. 266)

To amend section 6262 of the Code of Alabama.

Offense not  
punished cap-  
itally.

Duty of  
Judge.

Be it enacted by the Legislature of Alabama, That section 6262 of the Code of Alabama be amended so as to read as follows: 6262. Defendant's Bail on Appeal.—If the conviction is for an offense which is not punished capitally or by imprisonment for a term not exceeding five years, the judge or court must also direct the clerk of the court in which conviction was had to admit the defendant to bail in a sum which may be prescribed by the court, with sufficient sureties, conditioned for his appearance at the next term of the court in which the conviction was had and from term to term thereafter, to abide such judgment as may be rendered on the appeal, and the provisions of this act shall also apply to convictions already had in the courts of this State.

Approved August 24, 1909.

No. 52)

AN ACT

(H. 169)

To amend section 3484 of the Code of Alabama.

Railroad com-  
panies may ac-  
quire real  
estate.

Be it enacted by the Legislature of Alabama, That section 3484 of the Code of Alabama be and the same hereby is amended so as to read as follows: 3484. Railroad right of way for main line, switches, etc., may be acquired. Railroad companies may by condemnation acquire real estate for ways and rights of way, not exceeding one hundred feet in width throughout the entire length of its lines, and such other lands as may be necessary for ways and rights of way for switches, turnouts, side-tracks, extensions and branch roads not exceeding one hundred feet in width, throughout the entire length of such switches, turnouts, side-tracks, extensions and branch roads, and such other lands as may be necessary in making heavy excavations or embankments, or for the purpose of wasting material from excavations, or for borrowing earth or other material for the construction of embankments, or for protecting, making and keeping safe, and perfecting its roadway, together with

the right to remove all such trees outside thereof as might by falling upon, or shading the roadway, injure the same, and may re-locate any portion of its line for purpose of straightening or otherwise improving the same and for that purpose, may acquire by gift, purchase, or condemnation all necessary rights of way over lands, and abandon its original or constructed line, but it shall not change its termini; or make an entire departure from its original line between such termini.

Approved August 20, 1909.

No. 191)

AN ACT

(H. 257

To further suppress the evils of intemperance, and to secure obedience to and the enforcement of, and to prevent the evasion of, the laws of the State for the promotion of temperance and for the prohibition of the manufacture of and traffic in or unlawful disposition of prohibited liquors and beverages; to provide for the abatement of liquor nuisances and the seizure and destruction of forfeited liquors and beverages, and to prescribe the procedure in such cases.

1. Be it enacted by the Legislature of Alabama, 1. That if any person shall willfully let or suffer any other person, firm or corporation to use any premises which he owns or controls for the illegal sale or manufacture, or other unlawful disposition, of spirituous, vinous or malt liquors, or any other liquors, liquids or beverages prohibited by the laws of Alabama to be manufactured, sold or otherwise disposed of in this State, or for use by a wholesale or retail dealer in liquors, or by a wholesale or retail dealer in malt liquors, or by a rectifier of spirits, or distiller, or for the illegal storage or warehousing of such liquors and beverages he shall be guilty of a misdemeanor. Letting premises for sale, etc., of liquors, etc., a misdemeanor.

2. That the unlawful manufacture, sale, keeping for sale, giving away or otherwise disposing of any prohibited liquors or beverages contrary to the law of the State, or the carrying on of the Manufacture. etc. of prohibited liquors, etc. shall work forfeit-

ture of rent  
contract, etc.

business of a retail or wholesale dealer in liquors, or retail or wholesale dealer in malt liquors, or the business of a brewer, distiller or rectifier of spirits, shall, at the option of the landlord or lessor, work a forfeiture of all the rights of any lessee or tenant under any lease or contract of rent of the premises where such unlawful act is performed, or such unlawful business is conducted by the lessee or tenant, or by any agent, servant, clerk or employe of the lessee or tenant with the latter's knowledge or permission.

Unlawful to  
advertise in  
public places,  
etc.

3. Whereas it is the public policy of the State to discourage the use and consumption of prohibited liquors and beverages. It is hereby made unlawful to advertise upon any street car, railroad car, at any public place or resort, or upon any bill board, or any other public place such prohibited liquors and beverages, or any of them, or the person, firm or corporation from whom, or the place where, or price at which, or the method by which such prohibited liquors or beverages or any of them may be obtained and any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor; and this section shall be liberally construed so as to prevent the evasion thereof. Any sheriff, constable or police officer is authorized to remove any such advertisement from any bill board or other public place when it comes under his observation or is brought to his notice and shall do so upon the demand of any citizen. Any such advertisement containing the picture of a brewery or a distillery or bottles, jugs, keys, barrels, or boxes, represented as containing whiskey, beer, or other prohibited liquors and beverages shall be within the inhibition of this section.

Violations a  
misdemeanor.

Sheriff, etc.,  
authorized to  
remove such  
advertisement.

Advertisement  
containing  
picture of  
brewer, etc.,  
included.

Keeping of li-  
quors prima  
facie evi-  
dence.

4. That the keeping of liquors or beverages that are prohibited by the law of the State to be manufactured, sold or otherwise disposed of in any building not used exclusively for a dwelling shall be prima facie evidence that they are kept for sale, or with intent to sell the same, contrary to law.

Delivery of  
liquors, etc.,  
prima facie  
evidence of  
sale, etc.

5. That the delivery of liquors or beverages prohibited by the law of the State to be manufactured, sold or otherwise disposed of, in or from any store, shop, warehouse, boat or other vessel

or vehicle of any kind, or any shanty or tent, or any building or place used for the purpose of traffic, or any dwelling house or dependency thereof if any part of the same is used as a public eating house, grocery or other place of common resort, shall be deemed prima facie evidence of a sale or other unlawful disposition.

6. That no sheriff, jailer, police officer, mar-Sheriff, etc.,  
shal or other person in charge of any jail or lock- shall not give  
up under any pretense whatsoever shall give, sell etc. any liquor  
or deliver to any prisoner therein any spirituous, etc., under any  
vinous or malt liquor, or any other liquor or bev-pretense to  
erage prohibited by the laws of Alabama to be-prison, except  
sold, given away or otherwise disposed of, unless upon physi-  
a reputable physician certifies in writing that cian's certifi-  
the health of such prisoner or inmate requires it; cate in writing.  
and in case of such certificate may be allowed  
the use of the prescribed quantity of pure alcohol  
and no more; and any of said officers violating Guilty of mis-  
any provision of this section shall be guilty of a demeanor.  
misdemeanor.

7. That every person who being employed up-Any person  
on any railway or street railway as engineer, employed upon  
conductor, baggage master, brakeman, switch- railway, etc.,  
tender, flagman, motorman or signal man or per- shall not be in-  
son having charge of stations or the starting or toxicated while  
regulating or running of trains upon any railway discharging du-  
or street railway, or being employed as captain, ties; misde-  
engineer or other officer of a vessel propelled by meanor.  
steam, shall be intoxicated while engaged in the  
discharge of any such duties, shall be guilty of  
a misdemeanor.

8. That every wife, child, parent or other per-Wife, etc.,  
son who shall be injured in person, or property shall have  
or means of support by any intoxicated person, right of action  
or in consequence of the intoxication of any per- for injury.  
son, shall have a right of action against any per-  
son who shall by selling, giving or otherwise dis-  
posing of to another contrary to the provisions  
of law, any liquors or beverages, cause the intox-  
ication of such person, for all damage actually  
sustained, as well as exemplary damages; upon  
the death of any party the action, or right of ac-  
tion will survive to or against his executor or  
administrator. The party injured, or his legal  
representatives, may bring a joint or separate ac-  
tion against the person intoxicated, or who fur-

Such suits by  
civil action.

nished the liquor; and all such suits shall be by civil action in any court having jurisdiction thereof.

Person unlaw-  
fully making  
or disposing of  
liquors subject  
to fine and im-  
prisonment,  
etc.

9. That any person who conceals himself in any house, room, booth, enclosure, or other place, and manufactures, sells, gives away, barter, exchanges or otherwise disposes of spirituous, vinous or malt liquors or any other prohibited liquors or beverages or who, by any device or subterfuge sells, gives away or otherwise disposes of any of said prohibited liquors or beverages in violation or evasion of law, or who, in any house, room, booth, enclosure or other place, in such manner and under such circumstances as that he can not be seen by persons from the exterior, manufactures, sells, gives away or otherwise disposes of any such prohibited beverages, contrary to law, shall be fined not less than fifty dollars nor more than five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not less than three months nor more than six months, at the discretion of the court or judge trying the case.

Justice, etc.,  
shall issue  
warrant of ar-  
rest on com-  
plaint being  
made of viola-  
tion of above  
section, etc.

10. That if any person violates a provision of the foregoing section, upon complaint being made on oath before a justice of the peace or judge of the county court, or a judge of any other court, having jurisdiction of misdemeanors, or a recorder of a town or city, that spirituous, vinous or malt liquors, or other beverages, or liquors prohibited by law to be sold, given away or otherwise disposed of, have been sold, given away or otherwise disposed of in violation of law, and that the person committing such offense comes within the terms of the preceding section, and that such person is known or unknown to the person making the complaint, and that other parties present and participating in the tippling or drinking of liquors at such place are unknown to the person making the complaint, it is the duty of such justice or judge to issue forthwith a warrant of arrest, for such party for the offense charged in the complaint and immediately place such warrant in the hands of a constable, or sheriff, or chief of police, or police officer, who shall proceed at once to the place in which such violation of the law is alleged to have occurred, or to

Sheriff, etc.,  
shall arrest  
party com-



be occurring, and arrest all persons therein, and if such person executing the warrant is refused admittance, he shall force an entrance into the house or other place, and if necessary break in the door or other part thereof and arrest all persons found therein and carry them before the officer before whom the warrant is returnable, and thereupon such proceeding shall be had as if the warrant contained the name of each person so arrested, and a complaint may be framed and filed against the persons so arrested, charging them all as principals with the offense within the preceding section, and all persons present at such house and place loitering therein, or drinking there, shall, with the keeper, be deemed guilty of the misdemeanor declared in the preceding section, and are punishable as therein declared.

plained of;  
shall force entrance.

All persons present shall be deemed guilty, with keeper, of misdemeanor and punishable.

11. That any person who is summoned as a witness before the grand jury to answer as to any violation of law for the suppression of intemperance, or prohibiting the manufacture, sale or other disposition of prohibited liquors or beverages, or the keeping or maintaining any unlawful drinking place, or liquor nuisance, and who fails or refuses to attend and testify in obedience to such summons, without good cause, to be determined by the court, is guilty of contempt and also of a misdemeanor and on conviction of such misdemeanor must be fined not less than twenty nor more than three hundred dollars and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than three months, at the discretion of the court or judge trying the case.

Person summoned as witness before grand jury, who fails, etc., guilty of contempt.

12. The witnesses before the grand jury to give evidence may be required to answer generally as to any offense against the laws of Alabama for the promotion of temperance and the suppression of intemperance committed within their knowledge during the twelve months next preceding, or as to any violation within said time of any law of the State prohibiting the manufacture, sale or other disposition of any of said prohibited liquors or beverages, or the maintaining of any unlawful drinking place or liquor nuisance, and it shall not be necessary to first specially interrogate the witnesses as to any partic-

Witnesses required to answer generally .

ular offenses, but a witness must not be prosecuted for any offense as to which he testifies before the grand jury; and the solicitor or any member of the grand jury may be a witness to prove that fact.

Judges shall give liquor laws in charge to grand jury.

13. The judges of all courts empanneling grand juries shall give in charge to said grand jury the liquor laws of the State, and those enacted for the purpose of promoting temperance and suppressing the evils of intemperance, and he shall instruct them to investigate and return indictments against all persons guilty of violating said laws, or any provision of them.

No discretion as to indictments for violations, etc.

14. That grand juries shall have no discretion as to the finding of indictments for violations of the provision of this act, or for violations of the provision of any law of the State for the promotion of temperance and the suppression of intemperance, and it shall be their duty, if the evidence justifies it, to find and present indictments for every such violation.

No clerk, etc., excused from testifying against principal; no principal excused from testifying against clerk, etc.

15. That no clerk, servant, agent or employe of any person accused of a violation of the laws to promote temperance and to suppress intemperance, or prohibiting the sale, manufacture or other disposition of liquors, or beverages, shall be excused from testifying against his principal for the reason that he may thereby incriminate himself, nor shall any principal be excused for the same reason from testifying against any clerk, servant, agent or employe in such cases; but no testimony so given by any of said parties shall in any manner in any prosecution be used as evidence directly or indirectly against him, nor shall the party testifying be thereafter prosecuted for any offense so disclosed by him.

Unlawful to store prohibited liquors, etc.

16. That it shall be unlawful for any person, firm or corporation engaged in the business of selling beverages to keep or store on the premises where said beverage business is conducted any prohibited liquors or beverages, the sale, offering for sale, or other disposition of which is prohibited by the law of Alabama, and any person so violating this section shall be guilty of a misdemeanor; and this section is enacted to prevent evasions of the law and to remove opportunity of evading the law by selling prohibited

Violation.

beverages under cover of the legitimate beverage business.

17. That any person who within this State solicits or receives any order for spirituous, vinous or malt liquors, or any other liquors or beverages prohibited by the law of the State to be sold, or offered for sale, or otherwise disposed of in this State, in any quantity to be shipped into this State, or to be shipped from one point in this State to another point in this State, shall be guilty of a misdemeanor; and if such order be in writing <sup>Parol evidence admissible.</sup> parol evidence thereof is admissible without producing, or accounting for the absence of, the original; and the taking or soliciting such orders is within the inhibition of this section, although the orders are subject to approval by some other person and no part of the price is paid, nor any part of the goods delivered when the orders are taken.

18. That the sheriffs of the various counties shall at least once every month, between the first and tenth days of the month, procure from the office of the United States internal revenue collector for the State the name of each person, firm or corporation to whom a United States internal revenue license, or tax stamp, has been issued as a wholesale or retail liquor dealer, or a wholesale dealer or retail dealer in malt liquors, or a brewer or rectifier of spirits, and the name of each person, firm or corporation that has complied with the laws of the United States to become or carry on the business of a distiller in his county, and such sheriff shall immediately thereafter cause to be published for two successive weeks in some newspaper in his county in such black type as will call special attention thereto the names of said parties, together with the location of their places of business, giving street number when obtainable. For such services the sheriffs shall each receive the sum of twenty-five dollars per annum, and the expense and costs of publishing the same to be paid out of the general funds of his county. Any sheriff who shall fail, neglect or refuse to comply with the provisions of this section shall be guilty of a misdemeanor and shall be punished upon a conviction by a fine of not less than fifty nor more than five hundred dollars,

Any person soliciting or receiving, etc., guilty of misdemeanor.

Parol evidence admissible.

Sheriffs shall procure name of person once a month from U. S. revenue collector, having license, etc.

Names of each person, etc., to be published.

Fees.

Sheriffs, etc., failing or refusing to comply, guilty of misdemeanor.

**Common nuisances.**

and may be sentenced to hard labor for the county for not exceeding six months.

19. That the following are hereby declared to be common nuisances, and may be designated as liquor nuisances: (1) Any rooms or structures used for the unlawful manufacture, sale, furnishing, distilling, rectifying, brewing or keeping of liquors or beverages that are prohibited by the laws of Alabama to be manufactured, sold or otherwise disposed of in this State; (2) all houses, shops or places where such prohibited liquors and beverages, or any of them, are sold, bartered, exchanged or otherwise disposed of to be drunk on or near the premises, or where such prohibited liquors, liquids or beverages are kept for the purpose of sale or other disposition thereof in violation of law; (3) all places of resort where persons are permitted to resort for the purpose of drinking such liquors or beverages on or about the premises; (4) any unlawful drinking place that is kept or maintained in violation of the law of the State; (5) all restaurants, hotels and public eating places where the prohibited liquors and beverages, or any of them, are sold or served for beverage purposes; (6) all places where business is carried on by a wholesale or retail dealer in liquors, or by a wholesale or retail dealer in malt liquors, or by a brewer or distiller or rectifier of spirits in violation of the law of the State; (7) all warehouses or storage places where the prohibited liquors and beverages, or any of them, are kept or stored or received on consignment, or for distribution or delivery, contrary to the law of the State. The bill to be filed to abate such nuisances may be filed against any person, firm or corporation who maintains or aids in maintaining such nuisance, including agents, servants and employes, as well as officers of corporations.

**Proceeding in equity.**

20. That the nuisances named in the preceding section may be abated by a proceeding in equity in a court of competent jurisdiction, and the State attorney general, or the circuit or other solicitor, or deputy solicitor, or any prosecuting officer within a county where his official duties require him to prosecute criminal causes on behalf of the State, or any citizen, or citizens, of

the county wherein such nuisance exists, or is maintained, may upon their relation file a bill in the name of the State of Alabama in the chancery court, or other court possessing equity jurisdiction, in the county where the nuisance exists, to abate and perpetually enjoin the same. The bill or petition shall state the facts upon which the application is based and shall be verified by the affidavit of the officer or citizen filing the suit either upon knowledge, or information and belief, as the circumstances may warrant, and in case the bill is filed by any one of the officers named and he be unwilling to make the affidavit, the verification may be made by any citizen or citizens in the same manner and terms as if the bill had been filed by him or them. No bond shall be required as a condition precedent to the issuance of a preliminary injunction when the suit is brought by the attorney general of the State, or solicitor, deputy solicitor or any other prosecuting official. When a bill making a prima facie case and properly verified is presented to the chancellor or judge of the court wherein the bill is filed, or is to be filed, or other judge authorized by the law of the State to grant a fiat for a preliminary injunction, such chancellor or judge may order an appropriate preliminary injunction to issue in accordance with the prayer of the bill, and the chancellor or judge may direct the terms of the preliminary injunction so as to carry out the purposes of this section, which is to secure the restraint and abatement of such liquor nuisances on the premises. The owner of and all persons interested in the building or premises where the nuisance exists, or any agent renting the same, as well as the keeper thereof, may be joined with the keeper as parties defendant to the proceedings, and all such owners, keepers, parties interested or agents who may be found to have knowingly assented to the keeping or maintaining of such nuisance on the premises at any time within six months prior to the commencement of the suit, and their servants, lessees and tenants shall be perpetually enjoined from maintaining and keeping, or suffering to be kept and maintaining such nuisance, or any liquor nuisance, upon

May file bill in  
name of State.

No bond re-  
quired.

May order pre-  
liminary in-  
junction.

Owner, etc., of  
premises may  
be party de-  
fendant.

Rules of evidence, etc., may be applied.

Final hearing, court shall order abatement.

the said premises. The court shall have full power and authority to maintain its jurisdiction and by all suitable orders and writs to enforce its decrees in respect to the subject matter of the suit, and to so shape and mould its decrees as to accomplish the purpose of the bill; and all the rules of evidence, practice and procedure, except as otherwise herein provided, that pertain to courts of equity generally, or that exist by virtue of any law of this State may be invoked and applied in any such injunction proceeding instituted hereunder. Upon the final hearing of the case instituted to abate a liquor nuisance if it shall appear that the bill has been sustained by the evidence, or has been taken for confessed, the court shall order an abatement of the nuisance, which order shall direct the destruction of all such prohibited liquors and beverages as are found upon the premises, together with all signs, screens, bars, bottles, glasses and other movable property used in keeping and maintaining said nuisance and the destruction of all such liquors and beverages, and such movable property as may have been seized under authority of the court pending the hearing of the cause.

If the bill shall pray for a writ of seizure authorizing the sheriff to seize all prohibited liquors and beverages on the premises together with all signs, screens, bars, bottles, glasses, and other movable property used in keeping and maintaining said nuisance, the officer, or citizen, or citizens, filing the bill may at the time they apply for a preliminary injunction make application to the judge who grants the fiat, or to the judge or chancellor of the court in which the bill is, or is to be, filed, or they may at any time pending the hearing make such application, to said judge or chancellor for such writ of seizure, and said writ may be ordered to issue when probable cause is shown, supported by oath or affirmation, for the issuance of said writ, and that the officer or person making the application or filing the bill has probable cause to believe, and does believe, that said prohibited liquors and beverages are manufactured, sold, furnished, given away, kept or offered for sale in violation of law on or about said premises, and the said offi-

cer, or citizen, making the application may support the same by the production of witnesses whose depositions may be taken in writing and be sworn to and subscribed by the persons making them, and the judge may order said writ of seizure when he is satisfied from the affidavit of the officer or citizen, or the depositions of witnesses, one or both, that facts have been produced affording probable cause for believing the grounds of the application to exist. Such writ shall name or describe the person or other party whose premises are to be searched, and shall describe as near as may be the liquors or beverages that are to be seized, and the place where said liquors and beverages are to be seized as herein-after prescribed for other search warrants. Whenever it shall be finally decided in the cause that the liquors seized as aforesaid are forfeited, and that they were kept or stored for an illegal purpose the decree shall order the officer having said liquors in custody to forthwith destroy the same, together with the vessels containing the same, and other movable property used in keeping and maintaining the nuisance, and immediately thereafter to make return of said order to the court whence it issued with his doings indorsed thereon, but if it shall be finally decided that any liquors or beverages so seized are not liable to forfeiture the court shall order the officer having the same in custody to restore said liquors, with the vessels containing the same, to the place where it was seized as near as may be and to the person entitled to receive it, which order the officer shall obey and make return to the court of his acts thereunder.

Judge may order writ of seizure.

Shall name party whose premises to search and describe liquors.

Order officer to destroy liquors, etc., and make return to court.

When not liable to forfeiture court shall order same restored.

20 1-2. There shall be allowed the officer making the seizure under such writ in an injunction case the sum of three dollars and the sum of ten cents for every mile traveled in making the seizure, together with such reasonable sum as the court may deem just for necessary expenses incurred in transporting and providing storage for liquors and beverages and other movable property seized; all which costs shall be taxed in the bill of costs, and if not collected from a defendant then shall be taxed and paid as in criminal prosecutions in which the State fails; and the

Allowance for officer, etc.

When not taxed against defendant paid as in criminal cases.

Prohibited  
liquors con-  
traband and  
may be con-  
demned, etc.

Criminal pros-  
ecutions for  
violations of  
act approved  
Aug. 9, 1909.

Search war-  
rant may be  
issued.

costs in such injunction case, unless charged against some party defendant by the court and collected from him, shall be paid as in criminal cases in which the State fails, upon the court making an order to that effect.

21. Prohibited liquors and beverages kept, stored or deposited in any place in this State for the purpose of sale or unlawful disposition or unlawful furnishing or distribution and the vessels and receptacles in which such liquors are contained, are hereby declared to be contraband and are forfeited to the State when seized and may be condemned for destruction as hereinafter provided, and prohibited liquors and beverages may be searched for, seized and ordered to be destroyed as hereinafter set forth.

21 1-2. That in all criminal prosecutions against any person for violating a provision of the act approved August 9, 1909, for the suppression of the evils of intemperance, the court or judge upon a conviction may order the destruction of such prohibited liquors or beverages as had been sold, offered for sale, or had or kept in possession for sale or otherwise disposed of by the defendant, or had been employed by him for use or disposition at any unlawful drinking place, or had been kept or used in conducting the business of a liquor dealer or malt liquor dealer when such liquors or beverages have been seized for use as evidence in the case, and such court or judge shall have the like power upon conviction in case of the seizure for use as evidence such prohibited liquors and beverages in prosecutions against any person for unlawfully storing, accepting on consignment or delivering or transporting or shipping such prohibited liquors and beverages.

22. That a search warrant for the seizure of liquors and beverages that are prohibited to be sold or otherwise disposed of in this State, together with the vessel or other receptacles in which they are contained, may be issued as hereinafter prescribed, and the proceedings to secure the destruction of such liquors, beverages, vessels and receptacles upon the grounds herein defined, shall be as follows:



(1) The warrant may be issued by justices of the peace, judges of the county court, of any inferior court possessing the civil or criminal jurisdiction of justices of the peace, by recorders or other municipal judges of towns or cities by whatever name called; and the word magistrate hereinafter employed shall include each of the officers authorized to issue warrants.

By justices of peace and any judge of any inferior court.

Magistrate defined.

(2) Said warrants may be issued only on probable cause supported by affidavit naming or describing the person or other party whose premises are to be searched if known, and describing as near as may be the liquors and beverages to be searched for and the place to be searched, but the liquors or beverages may be described as prohibited liquors and beverages or spirituous, vinous or malt liquors if more specific description be not obtainable, and the affidavit may show that more specific description is not obtainable. The warrant may be executed by any one of the officers to whom it is directed, but by no other person except in aid of the officer, he being present and acting in its execution, but the complainant may accompany the officer who executes the warrant and give information, and assist him in executing the writ. A writ addressed to a sheriff may be executed by a deputy sheriff.

On probable cause by affidavit.

3. The magistrate before issuing a warrant must examine the complainant on oath and any other witnesses he may produce (if he produces any) and take their deposition in writing, and cause the same to be subscribed by the person or persons making them; and the same must set forth facts and circumstances as both tending to establish the ground or grounds of the application or probable cause for believing that a ground exists authorizing search warrant to issue.

Magistrate must examine complaint.

4. If the magistrate is satisfied of the existence of ground or grounds for the application, or one of them, or that there is probable cause to believe the existence of them, or one of them, he must issue a search warrant signed by him directed to the sheriff or to any constable of the county, commanding him to forthwith search the place named for the prohibited liquors and beverages and to bring them before the magistrate; if the warrant is sought to search a place whose

Magistrate must issue warrant if satisfied from evidence, etc.

keeper or owner is unknown, the affidavit may so state and the warrant may issue accordingly. The magistrate may direct the warrant to the chief of police or any police officer of a city when the place to be searched is within a city or within the police jurisdiction thereof.

Form of warrant.

5. The warrant may be in substantially the form prescribed by the Code of Alabama for other search warrants, and must, except as herein otherwise specified, be executed in the manner and with the authority of the officer as prescribed by said Code in respect to other search warrants.

6. The warrant may be issued on any one of the following grounds:

To whom warrant may be issued.

(a) When any person, firm association of persons or corporation, or unknown person or other party, keeps a place where prohibited liquors and beverages, or any of them, are manufactured, sold, kept for sale or otherwise disposed of contrary to law, or when such liquors and beverages, or any of them, are stored for sale, delivery or distribution contrary to law, or for other illegal purposes in any warehouse or other place.

When issued.

(b) When such prohibited liquors or beverages, or any of them, are in the possession of any person, firm, association of persons or corporation conducting on the premises an unlawful drinking place or maintaining a liquor nuisance thereon by means thereof.

Druggists excepted.

(c) When any person, firm, association or corporation is carrying on at the place the business of a retail or wholesale dealer in liquors (except bona fide druggists, who sell and keep for sale alcohol only under the regulations prescribed by law) or the business of a retail or wholesale dealer in malt liquors, and said liquors are kept for sale by such dealer.

Officer must if required give receipt for liquors when taken.

7. When an officer takes prohibited liquors and beverages under the warrant he must, if required, give a receipt to the person from whom they were taken or in whose possession they were found, and also a receipt for such receptacles or vessels as may be taken under the warrant, and the warrant must be executed and returned to the magistrate by whom it was issued.

within ten days from date, and after that time if not executed it is void.

The officer in his return of the warrant to the magistrate must specify with particularity the liquors and beverages and other articles taken, and the applicant for the warrant and the person from whose possession the liquors and articles were taken are entitled to a copy of the warrant, signed by the magtsirate, which he must furnish them on their application therefor.

The warrant may be executed at any time between eight o'clock in the morning, and six o'clock in the afternoon, or at any other time that the place or premises are open; but section 22 is not intended to secure the search of the premises of bona fide druggists who sell, or keep for sale alcohol only for medical, scientific or mechanical purposes, or wine for sacramental purposes as authorized by law, or of bona fide physicians who sell and keep for sale pure alcohol only for medical purposes at the places that may be allowed and subject to the restrictions and regulations prescribed by law.

8. When liquors and vessels are seized by the officer they shall be held by him subject to the order of the magistrate or the court to which the proceeding may be carried by appeal; and upon final judgment in accordance with the procedure herein defined must be returned to the lawful owner or owners or be otherwise disposed of according to law.

Liquors seized and vessels containing them shall not be taken from the custody of the officer by writ of replevin or detinue or other process while the proceedings are pending; a final judgment of condemnation in all such cases is a bar to all suits for the recovery of any liquors or vessels seized for the value of the same and for damages alleged to arise by reason of the seizure and detention thereof. The word vessel when used herein shall also include receptacles, and the word liquors shall also include other beverages that are seized.

9. Upon the return of the warrant to the magistrate showing a seizure thereunder, the magistrate shall issue a notice directed generally to all persons claiming any right, title or interest

Must specify the liquors, etc., taken.

Execution of warrant.

Sec. 22 does not intend search of premises of druggists or physicians.

When seized held by officers subject to orders of court.

Final judgment of condemnation bar to suits for recovery, etc.

Magistrate shall issue notice.

Copy of notice to person who kept the liquor, etc.; also copy to party named in affidavit.

Copy in conspicuous place on premises.

Persons claiming right in property seized may interpose.

Issue shall be deemed action pending.

If no claim judge shall hear testimony.

in such liquors, to appear before the magistrate issuing the warrant at a time and place therein specified not less than five nor more than fifteen days after the issuance of said notice and show cause why such liquors and vessels shall not be forfeited to the State and destroyed. A copy of such notice shall be delivered to the person or other party who kept the liquor or had possession of the liquors at the time of the seizure, and a copy shall also be delivered to the party named in the affidavit for the warrant if a different party from the one who kept or had possession of the liquors at the time of the seizure, and the officer shall place another copy of such notice in a conspicuous place upon said premises. At the time and place specified in the notice any person claiming any right, title or interest in the liquors and vessels seized under such warrant may interpose a verified answer controverting the allegations of the complaint upon which said warrant was issued and controverting the ground or grounds upon which the warrant was issued, and shall propound in such answer what right, title or interest he claims in the liquors or vessels seized. The issue thus framed shall be deemed an action pending in the court of the judge or justice who issued the warrant between the State of Alabama on the relation of the complainant and the liquor and vessels so seized and against the party in possession of the liquor against the party who interposes the claim and may be entitled in the name of the State of Alabama against the said party so appearing, if any, and if no one appears may be entitled as against said liquors adding for identification the name of the person or persons mentioned in the affidavit for warrant. The said case shall be tried in court as other cases are tried therein. If no party appear to make a claim at the time specified in the notice, or if no verified answer controverting the allegations of the complaint and the grounds of complaint is interposed, the judge or justice shall proceed to hear the testimony in support thereof. If it be established upon the hearing before said judge or justice or upon the trial of the action if issue be joined, that the liquors so seized are kept, stored or deposited for the purpose of un-

lawful sale or other disposition or furnishing or distribution within this State, or if it appears that the complainant has established a ground for the issuance of such search warrant, judgment or forfeiture and destruction of said liquors and vessels shall be entered which judgment shall provide for the public destruction of such liquors and vessels in which the same were contained by and under the direction of the officer who seized the same, or some other officer to be named by the court or judge. If the testimony produced on the hearing before the judge or justice or upon such trial before the judge or court shall fail to establish the complaint, or that a ground existed for the issue of the warrant, or that the liquors and vessels were kept, stored or deposited for the purpose of unlawful sale or other disposition or furnishing, distribution or delivery within this State, judgment shall be entered dismissing such complaint and providing that such liquors and the vessels containing the same be returned to the place from which or to the person from whom they were taken. If different parties appear and claim separate portions of the liquor seized, separate answers may be filed and separate issues may be framed and the trial had accordingly either before the magistrate or in the higher court to which the same may be carried by appeal. If judgment shall be against only one party defendant appearing he shall be charged to pay all the costs of the proceeding in the seizure and detention of the liquors claimed by him and the costs of the trial. But if judgment shall be rendered against more than one party claiming distinct parts of or the interest in said liquors and vessels, then the cost of the proceedings and trial may be equitably apportioned among the defendants for the amount of cost to be adjudged against them according to the discretion of the magistrate or court.

Judgment entered dismissing complaint.

Cost of trial; by whom paid.

In the event no one appears to contest the order of forfeiture and condemnation, or if the complaint is not sustained and no judgment of forfeiture is obtained, the costs shall be taxed and paid as costs are taxed and paid in criminal prosecutions wherein the State fails, and this rule shall apply as to any separate claim when

Contest of order of forfeiture; how costs and tax are paid.

several parties appear, claim and contest, and such separate claim is sustained and there is failure to obtain judgment as to the part of the liquor so claimed.

Appeal taken within five days from date of judgment.

In the event no one appears to contest the order of forfeiture and condemnation or if the complaint is not sustained and no judgment of forfeiture is obtained, the costs shall be taxed and paid as costs are taxed and paid in criminal prosecutions wherein the State fails and this rule shall apply as to any separate claim when several parties appear, claim and contest and such separate claim is sustained and there is failure to obtain judgment as to the part of the liquor so claimed. Any appeal from such magistrate must be taken within five days from the date of judgment, and on appeal may be taken in behalf of the State to the circuit or other court of like jurisdiction by the solicitor or other prosecuting attorney by filing a prayer for an appeal with the magistrate.

Person may appeal from judgment of forfeiture.

10. Any person appearing and becoming party defendant as aforesaid may appeal from the judgment of forfeiture and condemnation as to the whole or any part of the liquors and vessels claimed by him and adjudged forfeited, to the circuit court or city court or other like court of civil or criminal jurisdiction as in cases appealed from a justice of the peace or county court to such higher court, the appeal to be granted upon parties giving bond for the cost of appeal, and that will be incurred in such higher court, and upon written demand being made therefor endorsed on the appeal bond at the time said appeal is taken, the appellants may be entitled to a jury for the trial of the cause in said circuit or other like court. And said trial court shall proceed with the case denovo and may cause suitable issues to be framed for the determination of the cause.

Order issued to destroy liquors and vessels; by whom ordered.

11. Whenever it shall be finally decided that the liquors and vessels seized as aforesaid are forfeited and ordered condemned, the magistrate or court rendering final judgment of forfeiture shall issue to the officer having said liquors in custody, a written order directing him forthwith to destroy said liquors and vessels, and immedi-

ately thereafter to make return of said order to the court whence issued with his doings endorsed thereon. When it is finally decided that the liquors so seized are not liable to forfeiture, the magistrate or the court rendering the decision shall issue a written order to the officer having the same in custody to restore the same with vessels to the place where seized as nearly as may be or to the persons who are entitled to receive them.

12. The payment of a retail liquor dealers or retail malt liquor dealers special United States internal revenue tax for the place and covering the period in which such liquors are seized, or the maintenance or posting in any place where such liquors are seized of a retail liquor dealers or retail malt liquor dealers special United States internal revenue tax stamp, or a wholesale malt or liquor dealers tax stamp in force and effect at the time of such seizure, or the posting, keeping or maintaining of a notice or sign of any kind on or about the premises where such liquors are seized indicating that prohibited liquors are there sold, kept or given away, shall be prima facie evidence that the liquors so seized were kept, stored and deposited for unlawful sale or unlawful furnishing, disposition or delivery and shall constitute probable cause justifying the issuance of a search warrant to search the premises for prohibited liquors or beverages, and shall justify an injunction upon a bill filed in equity to abate a liquor nuisance at the place where the same is posted. The keeping of prohibited liquors in any building not used exclusively for a dwelling shall be prima facie evidence that the same are kept to be sold or otherwise disposed of or delivered or furnished contrary to law, except as to bona fide wholesale and retail druggists selling alcohol as specified in section 22 of this act and who shall have filed with the probate judge of the county a declaration in accordance with said section. No search warrant shall be taken out or bill of injunction filed against any wholesale or retail druggist paying such tax as a retail or wholesale liquor dealer until after the expiration of thirty days from the passage of this act unless other evi-

Payment of li-  
quor dealers  
special United  
States internal  
revenue tax  
prima facie  
evidence.

Keeping of  
prohibited li-  
quors except  
as wholesale  
and retail  
druggist, etc.

dence be obtained showing probable cause other than the payment of such special tax, or the posting of such special stamp. But nothing herein is intended to prevent any action to be taken against any druggist at any time when there is evidence of a violation by him or any law for the suppression of intemperance or the promotion of temperance, or against the sale or other disposition of prohibited liquors and beverages.

Person excused from attending court.

13. No person excepting one who answers claiming some right, title or interest in the liquors so seized shall be excused from attending and testifying or producing any books, papers or other documents before any court or judge or justice upon any such hearing or trial upon the ground or for the reason that the testimony or evidence, documentary or otherwise required of him may tend to convict him of a crime or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, trial or proceeding.

Search warrant issued; by whom.

14. A search warrant subject to the rules and restrictions hereinabove declared may be likewise issued by any judge of a city, circuit, criminal or other like court of record possessing criminal jurisdiction, returnable before the court in term time, and on the return of the warrant the same proceedings may be had before the judge sitting as a court as are prescribed hereinabove for the trial before magistrates issuing said warrants. Any defendant to the warrant in such court of record may have a jury trial upon demanding the same at the time he files his verified answer and claim.

Date for hearing and prosecution of case on behalf of State.

15. Where an officer seizes liquors and vessels under a search warrant he shall appear on the day fixed for the hearing and prosecute the case on behalf of the State, and if there be in the county at that time a solicitor or his deputy or other prosecuting attorney, he may notify such officer of the hearing, and such officer shall appear and prosecute said case on behalf of the



State in connection with the officer making the seizure and in connection with the complainant issuing out the search warrant, if the latter wishes to appear therein.

16. There shall be allowed the officer making the seizure under a search warrant the sum of three dollars, and also the sum of two dollars additional for every day that such officer shall necessarily be employed in attending court for the purpose of causing liquors seized to be condemned, and the sum of ten cents per mile for each mile he shall travel in executing the writ, together with such reasonable sum as the court may deem just for necessary expenses incurred in transporting and providing storage for liquors and vessels seized; all such costs shall be taxed in the bill of costs, and if not collected from the defendant or defendants, shall be taxed and paid as in criminal prosecutions in which the State fails upon the court or judge or justice making an order to that effect.

17. That whenever in any search warrant proceeding for forfeiture and destruction of liquors and vessels, it shall appear to the judge or court that there has been any irregularity in the service of any process or notice, or any omission to post or serve notices required or any defect in the affidavit or notice or in the service or return of either; the judge or court may permit the same to be amended, and may direct such further service or process or of notice as will in the judgment of the judge or court be most effectual in securing notice of the proceeding to those who may be entitled thereto, and so that the proceeding may not fail for any irregularity or technicality.

18. A search warrant may be sued out and prosecuted in accordance with the rules and regulations hereinabove prescribed in case there is probable cause to believe and it is made to appear to the magistrate or judge issuing the warrant that there is probable cause to believe that prohibited liquors and beverages, or some of them, are kept or deposited in or on a steam boat or water craft, of any kind, or in a depot, railway, car or land carriage of any kind, for unlawful sale, furnishing, distribution or other unlawful

compensation and mileage of officer acting under search warrant; how paid.

Irregularity in service of process; mode of procedure.

Prohibited liquors deposited in steam boat, etc., penalty for.

disposition. The place where such search is to be made should be described as near as may be in the affidavit and warrant for purpose of identification.

Trial of complaint.

22 1-2. Upon the trial of a complaint, warrant or indictment, or in any other judicial proceeding in which any person, firm or association or corporation is charged with having sold, or offered for sale, spirituous or malt liquors, or prohibited liquors and beverages, whether the sole charge or not, or with becoming a wholesale or retail dealer in liquors, or with being a wholesale or retail dealer in malt liquors, or with carrying on the business of such wholesale or retail dealers in liquors or malt liquors, or with maintaining a liquor nuisance, it shall be competent to prove that the party charged has for the place and period of time involved paid a wholesale or retail dealer's, or wholesale or retail malt liquor dealer's special United States internal revenue tax according as the charge may be; and it shall also be competent to prove that the party charged had posted at the place and time involved a liquor dealer's, or a malt liquor dealer's, special United States internal revenue tax stamp posted on or about the premises, and parol testimony may be received of the payment of any such special United States internal revenue tax and of the existence of the special United States internal revenue tax stamp posted or kept on or near the premises, at the place, or on or about the premises involved, and of the existence of any other fact made evidence by this section; and the fact of the payment of such wholesale or retail dealer's, or wholesale or retail malt liquor dealer's special United States internal revenue tax for the place and covering the period involved shall be deemed to be and constitute prima facie evidence that the party paying the same, or to whom it was issued, had sold, or offered for sale, the liquors for which, or for the privilege of selling which, said special tax had been paid, and said special tax stamp obtained, and that at the place and during the time for which said tax was paid, and at the place at which said stamp tax was posted said party had carried on the business of a wholesale

Posting of U. S. internal revenue stamp.

or retail liquor dealer or of a wholesale or retail malt liquor dealer, according to the terms of the special tax stamp; and the possession of said special tax stamp on or about the premises shall be prima facie evidence to the same effect; in any prosecution of any person, firm or corporation, or any judicial proceeding against such person, firm or corporation for carrying on the business of a brewer or distiller or rectifier of spirit, the fact may be shown in evidence by parol or other competent manner that the party charged has taken out a license from the United States as a brewer or distiller or rectifier of spirits, or has paid a special internal revenue tax as such brewer, distiller or rectifier of spirits, or has complied with the laws of the United States entitling such party, so far as concerns said laws, to be a brewer or rectifier or distiller of spirits for the place or the period involved in the charge or in the case and shall be deemed prima facie evidence of the guilt of such party, according as the charge may be; and when the payment of such tax, or the posting of such stamp tax, is made to appear to the satisfaction of the judge or chancellor in any proceeding to enjoin or abate a liquor nuisance, the same shall be sufficient to justify the chancellor or judge in awarding a preliminary injunction restraining the maintenance of such liquor nuisance. The same evidence with like effect as that herein above referred to is admissible against any servant, agent, clerk, or employe of any principal who has paid the tax or posted the tax stamp, or qualified to do business as a distiller, brewer or rectifier under the laws of the United States when such servant, agent, clerk or employee was engaged in conducting, or in aiding in the conduct of the business of the principal at the time and place involved and for which the tax was paid, or for which the principal qualified to do business as such distiller, brewer or rectifier. But the rule of evidence herein declared by which the payment of the special tax or the posting of a tax stamp is made prima facie evidence shall not apply to bona fide wholesale druggists selling alcohol only under the regulations of the law of the State and who have paid a special tax or taken out a special tax stamp

License from  
U. S. as brew-  
er, etc.

Preliminary  
injunction.

Regulations  
as to bona fide  
wholesale  
druggists.

from some internal revenue collector as a wholesale dealer in liquors, nor shall it apply to any retail druggist who is himself a registered or licensed pharmacist or who regularly employs a registered or licensed pharmacist, or to a bona fide physician who sells and keeps for sale alcohol for medicinal purposes, only, as authorized by law, and who sells alcohol only under the regulations prescribed by the law of the State and who has paid a special tax or has taken out a special tax stamp as a retail liquor dealer under the laws from such internal revenue collector. Provided, however, that the said druggist within thirty days after the passage of this act, or within fifteen days after paying such tax or taking such tax stamp, shall file a declaration under oath with the probate judge of the county in which their business is located and have same recorded to the effect that they paid said tax and obtained said stamp as such liquor dealer for the sole purpose of selling alcohol as authorized under the law of the State, and that they will not under said tax stamp or otherwise sell, offer for sale or keep for sale upon the premises where their business is conducted, any prohibited liquors or beverages except such alcohol as they are permitted by the laws of Alabama to sell; and provided further that bona fide physicians who may pay such tax in order to obtain the right to sell alcohol as authorized by the law of Alabama, shall within fifteen days after paying such tax and obtaining a tax stamp, file with the probate judge of the county a declaration in the terms herein above provided for use by druggists.

Payment of  
tax by bona  
fide physicians.

Storage, etc. of  
liquors pro-  
hibited.

23. It shall be unlawful for any person, firm, association or corporation to receive for storage, distribution or on consignment for another prohibited liquors and beverages or any of them, or to have or maintain any warehouse or other place for the receiving, storing or distribution of liquors for another, and any person violating this section shall be guilty of a misdemeanor.

Shipment, etc.  
etc., of liquors  
unlawful.

24. It shall be unlawful for any person, firm, corporation or association, whether a common carrier or not, to accept from another for shipment, transportation or delivery, or to ship, transport or deliver for another said prohibited

liquors or beverages or any of them, when received at one point, place or locality in this State to be shipped or transported to or delivered to another person, firm or corporation at another point, place or locality in this State, or to convey or transport over along any public street or highway any of such prohibited liquors for another, and any person violating any provision of this section shall be guilty of a misdemeanor, but the provisions of this section shall not apply to those transporting and delivering to druggists and physicians such alcohol as they are permitted by the laws of the State to sell or dispose of in accordance with the statutory regulations upon that subject.

Delivery of alcohol to druggists and physicians permitted.

25. No transfer company, traffic company, transportation company, warehouse company or other like corporation chartered under or by the laws of Alabama shall have any right or power to engage in or carry on the business of delivering, transporting, storing or warehousing any prohibited liquors and beverages, and any corporation of this State offending against this provision or engaging in such business shall forfeit its charter, which, however, may be declared upon a suit in quo warranto before a court of competent jurisdiction if any person or officer wishes to institute the suit.

Corporations violating, forfeit charter.

26. That when any certificate of incorporation or declaration or other like instrument is filed with any probate judge in this State preliminary to the organization of or for making of any business corporation under the laws of the State of Alabama of the kind named in the preceding section or of any mercantile or beverage company, the said instrument shall contain a paragraph to the effect that the corporation to be organized shall have no right, power or authority to manufacture, sell, keep for sale or otherwise dispose of or store, warehouse, deliver, or transport any prohibited liquors or beverages, or to be in any wise concerned in the traffic therein, unless it be a declaration to organize a bona fide drug company which must state that it has no right, power or authority to sell or keep for sale or offer for sale any prohibited liquor or beverage except alcohol in the quantity and subject

Certificate of incorporation; paragraph therein as to sale, etc. of liquors.

Regulations as to drug company.

Duty of probate judge.

Certain prohibitions as to drinking on railways, etc.

List of liquor dealers furnished by sheriffs to prosecuting officers; duty of prosecuting officers.

to the restrictions prescribed by the State law; and the said declaration shall also contain a statement to the effect that if such corporation shall do or perform any act which it has specified above it can not do or engage in, it will forfeit its charter which may be declared in a suit brought against the corporation in a court of competent jurisdiction in quo warranto if any person or officer wishes to bring such suit; it being the intent and purpose of this statute by this section to provide against creating corporations under the laws of the State of Alabama that may intend to violate her laws for the suppression of intemperance, or that will engage in or be concerned in any way whatever in the traffic in prohibited liquors and beverages, or in transporting, delivering or storing the same. No probate judge shall receive any declaration, certificate of incorporation or other like instrument for the organization of any such corporations which does not contain the declaration herein above described.

27. Any person who shall publicly drink spirituous, vinous or malt liquors or other prohibited liquors and beverages in the presence of passengers on a railway passenger car, or street car, or at any passenger waiting room or waiting place of any carrier of passengers, shall be guilty of a misdemeanor; but this shall not apply to any closet or smoking compartment; and conductors and superintendents of waiting rooms, waiting places may exercise the powers of a police officer for the enforcement of this section.

28. When a sheriff obtains from the internal revenue collector a list of persons who have paid United States special tax as a wholesale or retail liquor dealer or malt liquor dealer or as a brewer, or have qualified under the laws of the United States to be a rectifier or distiller of spirits in his county, he shall promptly furnish the solicitor, his deputy or other prosecuting officer or attorney who prosecutes criminal cases in the county on behalf of the State, with said list or a copy and it shall thereupon be the duty of such solicitor or other prosecuting attorney so notified to take active steps to secure the conviction of such persons and the prevention of a continued violation of the law of the State by such person

or party, and he shall proceed by injunction, search warrant or criminal prosecution, one all, according as his judgment dictates shall be most effective in securing the enforcement of the law against such party or parties; if he is willing and able to make the affidavit required by law, and if he is not he shall proceed by such injunction, search warrant or criminal prosecution, one or all according as his judgment dictates shall be most effective in securing the enforcement of the law if any reputable citizen offers to make or will make the affidavit necessary to secure the warrant, search warrant, or preliminary injunction in which cases he shall superintend the preparation of the papers and the prosecution of the cause; and any solicitor or other prosecuting attorney or sheriff who fails to comply with the requirement of this section, shall forfeit the sum of five hundred dollars to the State for each dereliction; but the said officers need not unless they have other evidence to justify it proceed against any bona fide druggist or any regular practicing physician or practicing physician who pays such special tax for the purpose of selling alcohol according to the statutory regulations upon that subject and who has complied with the provisions of this act in respect to filing a declaration in the office of the probate judge of the county as to the purpose for which said tax was paid. **Penalty.**

29. That any solicitor or other prosecuting attorney in the county whose duty it is to prosecute criminal cases on behalf of the State, shall not be prohibited from commencing prosecution of his own affidavit against any party violating any provision of this statute or any other law of the State of Alabama for the suppression of the evils of intemperance, and it shall be the duty of every such solicitor upon receiving information giving him probable cause to believe that there has been a violation of any statute upon the subject named, to proceed to lay the matter before the grand jury or to institute a criminal prosecution against said party by affidavit before a court or judge of competent jurisdiction if he is willing and able to make such affidavit for the institution of a criminal prosecution, or if he is not

**Duty of solicitors.**

Duty of sher-  
iffs.

Contents of in-  
dictment.  
complaint or  
affidavit.

he must superintend the preparations of the papers and the institution of the prosecution if any citizen is willing to make an affidavit for the institution of a criminal prosecution against any party for such violation, provided the solicitor is of opinion upon the facts at hand that there is reasonable ground to believe that a conviction ought to be had. And sheriffs are charged with the duty of being on the alert for violations of any of said statutes and of co-operating with the solicitors and prosecuting attorneys in bringing violators to justice.

29 1-2. That in an indictment, complaint or affidavit for selling, offering for sale, keeping for sale or otherwise disposing of spirituous, vinous or malt liquors, it is sufficient to charge that the defendant sold, offered for sale, kept for sale or otherwise disposed of spirituous, vinous or malt liquors contrary to law; and in an indictment, complaint or affidavit for selling, offering for sale, keeping for sale or otherwise disposing of prohibited liquors and beverages, it is sufficient to charge that the defendant sold, offered for sale, kept for sale, or otherwise disposed of prohibited liquors and beverages, and on the trial under a charge in either form any act of selling in violation of law embraced in the charge may be proved, and the charge in each of said forms shall be held to include any device or substitute for any of said liquors. In any indictment, complaint, information, or affidavit, charging that prohibited liquors and beverages have been manufactured, sold, offered for sale, kept for sale or otherwise disposed of, it shall not be necessary to set out the kind or quantity of the prohibited liquors and beverages, nor the person to whom such sale or offer to sell or other disposition was made, and in any prosecution for a second or subsequent offense it shall not be requisite to set forth in the indictment, information, complaint or affidavit, the record of a former conviction, but it shall be sufficient briefly to allege such conviction, and the person purchasing or to whom prohibited liquors and beverages or any of them have been sold or otherwise disposed of shall in all cases be a competent witness to prove the unlawful act, and no person



who testifies with respect to any unlawful act under this statute or other statute for the suppression of the evils of intemperance shall be prosecuted in respect to any act to which he testifies nor shall his evidence so given be used against him in any criminal proceeding.

30. Indictments, informations, complaints or affidavits for any violation of this statute, or any provision thereof, or of any other statute of the State for the suppression of the evils of intemperance, may set out several charges in separate counts, and the accused may be convicted and punished upon each one as upon separate informations, indictments, complaints or affidavits, and judgment shall be rendered on each count under which there is a finding of guilty.

What indictments, etc. may set out.

31. The term, prohibited liquors and beverages, employed in this act, shall include all liquors, liquids and beverages prohibited by the law of the State to be manufactured, sold or otherwise disposed of, or any device or substitute for any of them, and shall also be so understood in any warrant, process, affidavit, complaint, indictment, judgment, decree or pleading in any judicial proceeding; and the term "otherwise dispose of" following the words, sell, offer for sale or keep for sale, and the term "otherwise disposed of" following the words sold, offered for sale, kept for sale, when employed in any warrant, process, affidavit, indictment, information or complaint, or in any bill in equity or other pleading in any judicial proceeding or in any judgment or decree shall include and be deemed to include barter exchange, giving away, furnishing, or any manner of disposition by which said liquors and beverages may pass unlawfully from one person to another; and the term person or the term party when employed alone in this act shall include a firm, corporation or association of persons.

What constitute prohibited liquors.

Restrictions as to sale, etc.

31 1-2. That in all affidavits, informations, complaints or indictments against any party or parties for maintaining an unlawful drinking place as defined by the law of this State, it shall be sufficient to charge that the defendant maintained an unlawful drinking place contrary to the statutes in such cases made and provided,

Maintaining unlawful drinking place sufficient charge.

and under said indictment it shall be competent to prove any act of the defendant which under the law of the State constitutes the keeping of an unlawful drinking place.

Prosecutions  
begun by affi-  
davit as well  
as by indict-  
ment.

32. That all prosecutions for a violation of any provision of this act, or of any other act for the suppression of the evils of intemperance, including all prosecutions for violation of the statute, approved August 9th, 1909, and which in general terms is for identification referred to as an act to promote temperance and to suppress the evils of intemperance, and to prohibit the manufacture, sale, offering for sale, keeping or having for sale or otherwise disposing of prohibited liquors and beverages and keeping unlawful drinking places may be begun by affidavit as well as by indictment and that when begun by affidavit the person charged shall not have the right to demand that a grand jury shall prefer indictment for the alleged offense, but the prosecution may continue no matter in what court or before what judge the trial shall be had upon the affidavit upon which it was originally begun, and the said affidavit or any complaint that may be filed in such prosecution may be amended to meet the end of justice and to prevent a dismissal of the case upon any informality, irregularity or technicality. If the prosecution is begun in a court in which jury trials are provided for, the defendant may at the time he gives bond within five days thereafter file in the cause a demand for trial by jury, or if he does not give bond he may within five days after his arrest file in the court a demand for a jury trial, in which event such jury trial shall be allowed. If the prosecution is begun before a court or judge as to which or whom no provision is made for a jury trial, the court or judge if it or he has jurisdiction to try the case and to find a party charged guilty or not guilty, shall proceed with the trial, and if the party charged is convicted, he may appeal to the circuit court or other court of record of like jurisdiction in the county, having jurisdiction in cases of appeal from the county court or from a judgment of a justice of the peace in such form and in such manner and subject to such restrictions as govern appeals under the

As to jury  
trial.

Appeal to Cir-  
cuit Court,  
etc.

Code of Alabama from such justices of the peace or county court, and the party may demand and be entitled to a jury trial in such higher court under the same terms and conditions that jury trials are obtainable in cases of appeals from such justices of the peace or county court to said circuit court or other court of like jurisdiction; but this section shall not alter the practice in respect to any preliminary proceeding, authorized by law before a justice of the peace. Nor is it intended hereby to take away from the circuit court of any county any exclusive jurisdiction it may have to try cases against and to punish violators of prohibitory liquor laws, and any circuit court that may have exclusive jurisdiction by any law applicable to the county to try cases against and to punish violators of prohibitory or other anti-liquor laws shall continue to have its present jurisdiction, and shall have such exclusive jurisdiction of violations of this act or of the act approved August 9th, 1909, hereinabove referred to and all other laws of this State for the suppression of intemperance and the promotion of temperance.

32 1-2. That in all prosecutions against any persons for manufacturing, selling, offering for sale, keeping or having in possession for sale, bartering, exchanging, furnishing, giving away, or otherwise disposing of prohibited liquors and beverages, or for any one of the said acts, it shall be competent for the State to give in evidence the fact that the beverage which the evidence may tend to show the defendant had manufactured, sold, bartered, exchanged, furnished, giving away or otherwise disposed of, possess or possesses the same color, odor and general appearance, or the same taste, color and general appearance of a prohibited liquor or beverage such as whiskey rum, gin, ale, porter, beer, and any other prohibited liquor or beverage, and the fact that the beverage in question as above stated, is of the same color, odor and general appearance or same taste, color and general appearance as beer, shall constitute prima facie evidence that the beverage is a beer or a malt liquor or a substitute or device therefor, and within the inhibition of the statute approved August 9,

What constitutes beer,  
malt liquor,  
etc.

1909, for the suppression of intemperance in this act referred to; and the like rule of evidence shall apply in respect to whiskey and the other beverages named, and in the event the defendant claims that the beverage in question as above referred to is not within the inhibition of the statute when it possesses the same color, odor and general appearance or the same taste, color and general appearance as a prohibited liquor or beverage such as whiskey, beer or the other beverages named hereinabove, the burden of proof shall be upon him to establish to the reasonable satisfaction of the judge, court or jury trying the case that the beverage in question is not within the inhibition of the said statute, and that it is a beverage not prohibited by the said statute to be manufactured, sold, offered for sale or otherwise disposed of. The same rule of evidence shall be applicable in all cases for the abatement of liquor nuisances by bills in equity and in all prosecutions for violations of statutes of the State for the suppression of the evils of intemperance when it becomes necessary to determine whether the liquor or beverage in question is a prohibited liquor or beverage.

Punishment of agent or assisting friend.

33. That any person who shall act as agent or assisting friend of the seller or buyer in procuring an unlawful sale of any prohibited liquors and beverages shall be punishable as if he had sold said prohibited liquors and beverages, and conviction may be had of such agent or assisting friend upon an indictment, affidavit or complaint against him for selling prohibited liquors and beverages contrary to law.

Signs prohibited as advertisements.

33 1-2. That no dealer in beverages shall post or place about the premises any sign or signs containing the name of any prohibited liquors or beverages or indicating that any prohibited liquors or beverages are kept on or about the premises for sale or other disposition, nor shall any dealer in beverages employ the word "saloon" in designating the business or the place where the beverage business is conducted, and in case of any charge or prosecution against any dealer in beverages for violating the law against selling, offering for sale or keeping for sale or otherwise disposing of prohibited liquors and

beverages, it shall be competent to make proof in the cause that said party had posted such signs on or about the premises or that the word saloon was employed to designate the business or the place where the business was conducted. That any person violating any provision of this section shall be guilty of a misdemeanor. Penalty.

34. That if any prohibited liquors and beverages are delivered to a carrier to be by the carrier transported and delivered C. O. D. to any person at a point in this State, meaning thereby to collect on delivery by the carrier for the consignor the amount of the purchase money for such liquors, then and in every case the carrier shall be deemed and held the agent of the consignor, and all such prohibited liquors and beverages shall remain the property of the consignor until actually delivered and the money paid to the carrier therefor and the servant or agent of the carrier who knowingly delivers any such liquors and receives pay therefor within the State shall be guilty of a misdemeanor. Liquors delivered C. O. D. prohibited.

35. That any violation of any provision of this act where no other penalty is provided for, shall be punishable by a fine of not less than fifty nor more than five hundred dollars, to which may be added in the discretion of the judge or court trying the case imprisonment in the county jail or at hard labor for the county for not less than six nor more than twelve months, this being the general penal clause of the act. Fines and imprisonment provided.

36. That if any section or provision of this act shall be declared to be void or unconstitutional it shall not affect or destroy the validity or constitutionality of any other section or provision which is not in and of itself void or unconstitutional; and it is not intended by this act to interfere with the exclusive power of the Congress of the United States to regulate commerce with foreign nations and among the several States; and this act shall be so construed as to avoid conflict with that clause of the constitution of the United States which confers upon the Congress of the United States the power to regulate commerce with foreign nations and among the several States and with Indian tribes. Constitutionality of constitution of U. S. not to be interfered with.

**Liberal construction.**

37. This act shall be liberally construed so as to accomplish the purpose thereof, which is to further suppress the evils of intemperance and secure obedience to and the enforcement of the laws of the State for the promotion of temperance and for the suppression of the manufacture of and traffic in prohibited liquors and beverages and to prevent evasions and subterfuges by which such laws may be violated.

**Conflicting laws repealed.**

38. That all laws and parts of laws, general, local and special, in conflict with the provisions of this act be, and the same are, hereby repealed, but no such repeal or any repeal provided for by this section shall effect any existing right, remedy, defense or liability incurred, nor any action or prosecution, civil or criminal, already commenced or which may be hereafter commenced for any offense already committed, or to enforce any right, penalty or punishment under any repealed law, and as to all such cases the laws in force at the time of the enactment of this statute shall continue in force; and the following are hereby expressly repealed:

**Acts to remain in force.**

**Certain sections of previous laws repealed.**

Sections 7357, 7359, 7361, 7363, 7383, 7384, 7385, of the Code of 1907, also the act approved July 19, 1907, embodied in the Code of 1907 as section 7371 to 7377 both inclusive also an act approved November 23, 1907, entitled "An act to regulate prosecutions for violations of law prohibiting the sale, barter, or exchange of intoxicating liquors," and also an act approved November 23, 1907, entitled "An act to provide for the more effectual enforcement of prohibition laws."

**Effect.**

39. That this act shall take effect from and after its approval by the Governor, the public welfare requiring it.

Approved August 25, 1909.

No. 42.)

AN ACT

(H. 14.

To provide for and authorize appeals from any action or order of the Railroad Commission of Alabama reducing or increasing or refusing to increase any rates, fares or charges by common carriers for the transport-

tation of property, freight or passengers, specifically prescribed by statute, or made the maximum rates by statute, or established by the railroad commission.

Section 1. Be it enacted by the Legislature of Alabama, That from any final action or order of the railroad commission to which any common carrier is a party, reducing or increasing or refusing to increase any rates, fares or charges for the transportation of freight, property or passengers, which have been or which may hereafter be, specifically prescribed by statute, or any such prevailing rates, fares or charges which have been or which may hereafter be by statute made the maximum rates, fares or charges, or any rates, fares or charges which have been or which may hereafter be fixed by the railroad commission, or affecting or relating to any schedule, or parts of any schedule, of such rates, fares or charges, an appeal may be taken to the chancery court, or other court having chancery jurisdiction of Montgomery county by the common carrier, whose rates, fares or charges are affected, or by the State of Alabama. Such appeal shall be taken within thirty days from the date of said action or order, and shall be granted as a matter of right and be deemed perfected by the filing with the railroad commission of security for costs of said appeal when the appellant is the common carrier, and by the filing of notice of appeal when the appellant is the State of Alabama. Within thirty days after the perfecting of the appeal as aforesaid, and sooner if practicable, the railroad commission, through its president or any member thereof, or its secretary, shall certify to the appellate court under the seal of the commission a complete record or transcript of all the proceedings had before it, including all orders and pleadings, together with a transcript of all oral testimony and the original, or a transcript of all documentary evidence taken in the proceeding in which the order appealed from was made. The time for certifying said transcript to said

Appeal taken  
to chancery  
court of Mont-  
gomery Co.

Additional legal evidence.

appellate court may be extended by an order of the chancellor or judge thereof for good cause shown. When the appeal is taken by the State of Alabama from an order increasing any rate the common carrier whose rates are affected shall be the appellee and when the appeal is taken by the common carrier the railroad commission shall be the appellee. The trial of said appeal in the appellate court shall be de novo, but the transcript shall be admissible in evidence at the instance of either party and either party shall have the right to introduce any additional legal evidence; provided, however, that the action or order appealed from shall be prima facie presumed by the court to be just, reasonable and correct and the burden shall be on the party appealing to prove the contrary by clear and satisfactory evidence. The appellate court shall have no power to modify said action or order appealed from but shall either affirm or annul and vacate the same. In the trial of said cause either party may introduce evidence tending to show the validity, fairness or reasonableness or the contrary, of the rates, fares or charges sought to be established.

Common carrier execute bond.

Oath of common carrier as to approxi-

Sec. 2. No such appeal shall stay or supersede the order or action appealed from unless the appellate court or judge thereof, upon hearing and notice, after consideration of the testimony taken before the commission, shall so direct. If the appeal be from an order of the commission reducing or refusing to increase such rates, fares or charges, or any of them, or any schedule, or part or parts of any schedule, of such rates, fares or charges, the appellate court (or judge thereof, shall not so direct or order a supersedeas or stay of the action or order appealed from without requiring as a condition precedent to the granting of said supersedeas that the common carrier applying for the same shall execute and file with the clerk of said court a bond, which bond shall be as hereinafter provided. In the application for said supersedeas the common carrier shall under oath state the estimate approximate



amount by which its revenues will be increased <sup>mate amount</sup> or reduced, as the case may be, in one year, by <sup>of revenue.</sup> reason of the increased rate sought by it or the reduced rate complained of, and the bond hereinabove required shall be double the sum so estimated with two or more sureties, one of which may be a surety company, to be approved by the judge or chancellor, payable to the clerk or register of the court and conditioned to pay all such loss or damage as any person, firm or corporation may sustain, including all such excess rates, fares or charges, as such person, firm or corporation may have paid pending said appeal or any subsequent appeal to the supreme court in the event the order or action of the railroad commission shall be sustained. An additional bond of <sup>Additional</sup> like amount and with the same conditions shall <sup>bond,</sup> be given at the end of each year pending the appeal and pending any subsequent appeal by either party to the supreme court. From the time said bond shall have been given the order appealed from shall be stayed and superseded and it shall be lawful for the appellant to charge the rates, fares or charges which had been reduced by said order, or the rates, fares or charges sought to be established by its petition, until the final disposition of said cause; provided, that if said common carrier shall fail after thirty days written notice to give such additional bond at the end of each year pending said appeal and pending any subsequent appeal to the supreme court, the stay or supersedeas shall terminate, and the rates, fares or charges established by statute or by the railroad commission or by the order of action appealed shall be revived and shall be the lawful rates pending all further proceedings in the cause.

Sec. 3. From the judgment or decree of the <sup>Appeal to su-</sup> trial court an appeal may be taken by either <sup>preme court.</sup> party to the supreme court at any time within thirty days from the date of the rendition of said decree. If said appeal be taken by the common carrier security for the costs of the appeal shall

be given as in cases of appeals from the chancery court, and if a supersedeas bond had been given on appeal to the chancery court as hereinabove provided for, then pending said appeal to the supreme court by the common carrier, and pending an appeal thereto by the railroad commission, if it should appeal, such bond shall continue in force and effect and all the conditions thereof shall be complied with said cause shall have precedence over all other causes except criminal causes, both in the trial court and in the supreme court, and, may be advanced on the docket for the purpose of expediting the final decision thereof.

Expenses incurred by railroad commission, how paid.

Sec. 4. All expenses incurred by the railroad commission in the trial of said cause, including any costs that may be taxed against it, or against any member thereof, shall be paid out of the State treasury upon a warrant drawn by the auditor on the State treasurer and approved by the governor. The costs of the transcript certified by the railroad commission to the chancery court shall be taxed as a part of the costs of the cause at the same rate as transcripts from the chancery court to the supreme court are taxed.

Repeal.

Sec. 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved August 19th, 1909.

No. 56.)

AN ACT

(H. 203.

To amend section 16 of an act, entitled "an act to provide for the organization, incorporation, government, and regulation of cities and towns, and to define the rights, powers, jurisdiction and authority of such cities and towns, and of the officers thereof, and to prescribe penalties for violations of the provisions of this act," known as the Municipal Code Bill.

Be it enacted by the Legislature of Alabama, That section 16 of an act entitled, "an act to provide for the organization, incorporation, government, and regulations of cities and towns, and to define the rights, powers, jurisdiction and authority of such cities and towns, and of the officers thereof, and to prescribe penalties for violations of the provisions of this act," be amended so as to read as follows: Amended.

Officers enumerated; time of election.—In cities having a population of six thousand or more, at each general municipal election, there shall be elected the following officers, who shall compose the city council for such cities, and who shall hold office for two years and until their successors are elected and qualified, and who may exercise the legislative functions of city government and any other powers and duties which are or may be, vested, by law in the city council or its members: A president of the city council; and in cities having seven wards or less, two aldermen from each ward, to be elected by the qualified voters of the several wards voting separately in every ward; except in cities of less than twenty thousand inhabitants, in which two aldermen from each ward shall be elected by the electors of the city at large; in cities having more than seven wards, one alderman from each ward and a sufficient number of aldermen from the city at large to make the total number of aldermen fourteen, exclusive of the president of the council; and in cities having fifty thousand inhabitants or more, the city council may create not exceeding twenty wards. The governing body as now organized of any city of more than thirty-five thousand population, according to the last Federal census, desiring a different organization of the legislative department of the city government than the above, to be effective at the expiration of its present organization, as provided in section 1047 of this Code may, within thirty days after the 13th day of August, 1907, by ordinance, elect to have the following legislative officers of this city: Officers enumerated; time of election.

A president of the council, to be elected at each biennial municipal election by the qualified voters of the city, and two aldermen from each ward, to be elected by the qualified electors of the respective wards. One alderman from each ward to be elected biennially. The terms of such aldermen to be four years, or until their successors are elected and qualified. Such governing body shall have full power and authority to provide for the organization of the council under this provision, including the election of long and short term aldermen at the general municipal election in 1908, of that be necessary. Provided, however, that the aldermen of each city taking advantage of this provision shall serve until the general municipal election nearest the expiration of their terms and until their successors are elected and qualified. Vacancies in the office of aldermen shall be filled by the council at the next regular meeting or any subsequent regular meeting of the council, the person so elected to hold for the unexpired term.

Vacancies in office of aldermen; how filled.

Qualifications of officers.

Increase of number of wards and aldermen.

Qualifications of officers.—The council shall judge of the qualifications and election of the mayor, the president of the council, and of each alderman, and such other officers as may be elected by the people, and the resolutions and ordinances that may be adopted by the city council, under this section, shall not be subject to the approval or disapproval of the mayor. Whenever the population of any city exceeds fifty thousand, the council may increase the number of wards and aldermen therefor, a ward for every four thousand population over fifty thousand.

Approved Aug. 20th, 1909.

No. 67.)

AN ACT

(H. 137.

To regulate the vacation of parts of streets by cities and towns for the purpose of allowing the erection and maintenance of structures for the public convenience on such vacated portions of streets.

1. Be it enacted by the Legislature of Alabama, That whenever in the judgment of the city council or town council of any city or town it is to the interest of the public convenience that a portion of any street in the limits of such city or town be vacated and discontinued as a highway, and such vacated portion be used for the erection and maintenance, in whole or in part, thereon of any state, county, or municipal public building, or railroad station or depot, or street railroad station or depot, such city council or town council may, by ordinance duly adopted in accordance with the law of this State governing the adoption of ordinances by city councils or town councils, except as such laws are modified by this act, vacate such portions of such street, and discontinue its use as a public highway, and permit the erection and maintenance in whole or in part thereon of a state, county or municipal public building, or railroad station or depot or street railroad station or depot; provided, however, that a sufficiently ample portion of the highway or thoroughfare, which such street in whole or in part constitutes, shall remain open to accommodate the travel and traffic of the owners of abutting property and of the general public; and provided, further, that not more than one half of the width of such highway or thoroughfare shall be vacated for such purposes; and provided further that said ordinance shall be adopted by a two-thirds vote of the city council or town council.

Vacation of streets; how vacated.

Erection of certain buildings.

2. The fee of such vacated portion of streets shall remain in the city or town, but the council may grant the right to maintain thereon a state, county, or municipal public building, or a railroad station or depot, or street railroad station or depot, so long, and only so long, as the same shall be used for the purpose for which it was vacated.

Maintenance of certain buildings.

3. No ordinance vacating a portion of a street, as provided in section 1 of this act, shall be adopted until after the expiration of thirty

Procedure to be adopted in

matters or vacating streets.

days after its first introduction, and after it has been introduced it shall be published in some newspaper published in the city or town for two successive weeks, and such publication shall also contain a statement of the time when it will be considered, and that objections to its passage may then be heard by the council. If, for any reason, it be not acted on at the time stated in the said notice, it may be postponed to the next regular meeting of the council, and may thereafter be postponed by the council to subsequent regular meetings. The State, county, or municipality, or the railroad or street railroad company or corporation for whose use as a site in whole or in part for a public building, or a railroad station or depot or street railroad station or depot the vacation is proposed to be made, shall pay the cost of such publication and notice.

Payment of costs of publication.

Liability as damages.

3 1-2. Provided the party for whom the street may be vacated under this act shall be liable to the owners of property adjacent thereto in any action for any special damages suffered by them.

Repeal.

4. All laws and parts of laws inconsistent or in conflict with the provisions of this act are hereby repealed.

Approved Aug. 25, 1909.

No. 73.)

AN ACT

(S. 70.

To repeal sections 1720 and 1742 of the Code of Alabama and to amend sections 1721, 1722, 1723, 1726, 1727, and 1741 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That section 1720 of the Code of Alabama be and the same is hereby repealed.

List of questions prepared.

Section 2. That section 1721 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1721—List of Questions Prepared.—The State Board of Examiners shall prepare questions for the examination of teachers and the president of the State eboard of examiners shall cause lists of the questions so prepared to be printed and shall ten days before the date of each examination send to each person

appointed to conduct examinations in the counties of the State a sufficient number of the lists. The questions so sent shall be enclosed in a sealed package and the said seal shall not be broken, except as provided by law.

Section 3. That section 1722 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1722—Times for examination of teachers.—The third Mondays in April, July and December are appointed for the examination of teachers. The examination may be continued from day to day for three consecutive days, if such continuance shall be necessary for the completion of the work of examination, but no examination shall be begun on any other day than the first day mentioned in this section. No examination shall be held at any other time.

Times for examination of teachers.

Section 4. That section 1723 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1723—Temporary certificates—The State Board of Examiners may, upon recommendation of any city superintendent, town superintendent or chairman of any board of district trustees endorsed, in each case, by the county superintendent of the county in which the teacher is to be employed, grant a "temporary certificate," valid only in the county designated, to any teacher who at the time of the last preceding examination was not a resident of Alabama; or who, at such time, was prevented by sickness from taking the examination, provided that such person last named shall be required to furnish the certificate of a physician. All "temporary certificates" shall be valid only from date of issue to the date on which may be made a final report by the board of examiners upon the applicants at the next succeeding regular examination. After receiving one "temporary certificate" no teacher shall receive a second "temporary certificate" until he shall have obtained at a regular examination a certificate to teach in the public schools of this State. All "temporary certificates" shall be issued without cost.

Temporary certificates.

Section 5. That section 1726 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1726—Compensation of

Compensation members  
state board of  
examiners.

the appointed members of the State Board of Examiners—The secretary of the State Board of Examiners shall receive twenty-four hundred dollars per annum and the other appointed member shall receive twelve hundred dollars per annum payable in equal monthly installments out of the general educational fund.

Compensation  
of examiners.

Section 6. That section 1727 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1727—Compensation of examiners—The county superintendent or person appointed to conduct the examination in each county shall receive ten dollars for his services in conducting each examination and may be allowed five dollars for each assistant employed; provided that an assistant may be employed for each fifty applicants or fraction thereof over and above the first fifty in any given county. Tables or desks shall be furnished by the county superintendent of education to be used by applicants on such examination; and the county superintendent shall furnish to the State superintendent a sworn statement of the amount expended therefor which amount, shall be paid from the educational fund, upon the approval of the State superintendent. Provided that in no case shall the amount allowed exceed ten cents per applicant.

Life certificates.

Section 7. That section 1741 of the Code of Alabama be and the same is hereby amended so as to read as follows: 1741—Life certificates.—Whenever any teacher applying for a certificate shall make proof that he has been engaged for five years in teaching under a first grade certificate, which proof the county superintendent of education shall transmit to the State board of examiners, and shall show a high degree of proficiency and professional attainment, such teacher may be granted a life certificate, signed as prescribed for other certificates.

Repeal,

Section 8. That section 1742 of the Code of Alabama be and the same is hereby repealed.

Effect.

Section 9. The provisions of this act shall take effect on December 1, 1909.

Approved August 21, 1909.



No. 77.)

AN ACT

(H. 211.)

To amend section 3613 of the Code of Alabama of 1907.

Be it enacted by the Legislature of Alabama, That section 3613 of the Code of Alabama of 1907 be amended so as to read as follows:

3613. Religious, educational, benevolent and burial societies.—The members of any church or religious society, of an educational society, benevolent society, or the owners of a graveyard, desiring to become incorporated, shall elect not less than three, nor more than twelve trustees.

Approved Aug. 25, 1909.

No. 81.)

AN ACT

(H. 271.)

To better secure the enforcement of the laws of the State, to prescribe duties of sheriffs and solicitors in the enforcement of laws and to authorize their impeachment for willful neglect of duty.

1. Be it enacted by the Legislature of Alabama, That it shall be the duty of sheriffs in their respective counties by themselves or deputies to ferret out crime, to apprehend and arrest criminals and in so far as within their power to secure evidence of crimes in their counties, and to present a report of the evidence so secured to the solicitor or deputy solicitor for the county, or if there is an inferior or special statutory court within the county in which a solicitor prosecutes criminal cases then to such solicitor.

2. That the sheriffs in their respective counties whenever directed to do so in writing by such solicitors or any of them, or by the attorney general or governor shall make special investigation of any alleged violation of the law in their counties, and shall prepare a written report setting forth what information has been obtained as a result of such investigation together with the names of such witnesses as have been secured with a summary of what can be proven by such witnesses, which report shall promptly after its preparation be presented to the solicitor who di-

Expenses of  
investiga-  
tions, how  
paid.

rected the investigation or to the attorney general or to the governor when they have directed the investigation and in the latter event the governor or attorney general may present it to any solicitor prosecuting criminal causes in the county. The sheriff of the county shall proceed promptly by himself or by a competent deputy of experience and fidelity to make such investigations when directed as aforesaid. The expense of such investigation when so ordered shall be paid from the county treasury, upon a warrant properly drawn; and after the report is made the sheriff shall file with the board of revenue or court of county commissioners a detailed sworn statement of his expenses accompanied by the written approval of the officer directing the investigations, and the board of revenue or court of county commissioners shall audit and allow only so much thereof as it shall find reasonably necessary unless it is approved by the governor or attorney general in which event they shall allow the amount approved, and for such investigation in addition to his expenses which may include any actual cost of travel that was necessary, the sheriff shall be allowed a fee of four dollars but if the investigation consumes one day or less then a fee of two dollars, and the fee and allowed expenses must be paid in each case from the county treasury upon a warrant drawn according to law. Every such solicitor shall direct the sheriff to make such investigation and report when a written request to that effect setting forth the alleged violation of the law is presented to him signed by twenty-five reputable citizens of the county.

Promotion of  
temperance;  
suppression of  
intemper-  
ance.

3. The sheriffs shall diligently and promptly discharge all duties imposed upon them by all laws of the State for the promotion of temperance and the suppression of the evils of intemperance and by the law regulating the conduct of the retail beverage business, and shall promptly perform every act which said laws direct or require them to perform.

Names of per-  
paying

4. Within five days after the passage of this act the sheriff of each county by himself or by a deputy or deputies of experience and fidelity, shall obtain the list of persons, firms and corpo-

rations as published in a county paper in the month of July of the present year who had paid the special internal revenue tax to the collector of internal revenue of the United States as retail or wholesale liquor dealer or wholesale or retail malt liquor dealer or a brewer, or had obtained a special tax stamp or license from such collector of internal revenue as such retail or wholesale dealers of brewers, and shall within said time proceed to make an inspection and examination of the places for which such special tax was paid and to ascertain whether the special United States tax stamp is posted conspicuously about the premises and whether the person, firm or corporation paying such special tax or other person, is doing business at said place, and if so what character of business seems to be conducted there and by whom, and particularly whether any beverage business is conducted at said place or places, or whether there seems to be any stock of liquors on hand for sale or distribution, and any other fact the sheriff may ascertain tending to show that said parties are violating or are prepared to violate any prohibitory law of the State or other law for the suppression of the evils of intemperance, and whether said parties or any of them are retail or wholesale druggists, and the sheriff shall report the result of such investigation in writing to the solicitor or solicitors who prosecute criminal cases in their respective counties. Said report shall be kept on file by the solicitor in his office and shall be subject to the inspection of the probate judge or of the judge of the court in which the solicitor prosecutes, and after fifteen days shall be open to the inspection of any tax payer of the county, who may make a copy or take extracts therefrom. The said sheriff shall be paid for each such inspection and report the sum of two dollars each for the first fifty inspections and if such inspections number more than fifty the sum of one dollar for each subsequent inspection under this section, together with the actual expense of travel this is necessary to make the inspection beyond the limits of the county town, which fees and expenses shall be audited and allowed by the board of revenue or court of county commissioners and be paid out

internal revenue tax as retail or wholesale liquor dealer.  
Duty of sheriff as to.

Expense of;  
how paid.

of the county treasury in the manner and form provided by section 2 for the investigation under that section.

Violation of  
temperance  
laws; how pun-  
ished.

5. Whenever the sheriff has probable cause to believe and does believe that any of the laws for the suppression of intemperance are being violated by any person, or ascertains facts which under the law of the State constitute prima facie evidence of guilty of violating any of such laws, he may by himself or through deputy institute by affidavit a criminal prosecution against eth guilty party or parties before a court or officer of proper jurisdiction.

Solicitors and  
prosecuting at-  
torneys to as-  
sist sheriffs.

6. That it shall be the duty of the solicitors and prosecuting attorneys in the counties wherein they prosecute to diligently aid the sheriffs in enforcing the law and he may by his own affidavit institute criminal proceedings or file a bill to abate liquor nuisances in cases in which he has probable cause to believe and is able to show to the magistrate or judge probable cause for believing that the laws for the suppression of the evils of intemperance are being violated or a liquor nuisance maintained, and he may do so when the facts are brought to his knowledge which make a prima facie case under the laws of the State for such violation.

Associate coun-  
sel author-  
ized by gov-  
ernor or at-  
torney gen-  
eral.

7. That the said solicitors hereinabove referred to shall recognize as associate counsel in a criminal prosecution for a violation of said laws for the suppression of the evils of intemperance, any attorney employed or authorized by the governor or attorney general to appear in the cause as associate counsel or any such attorney who is employed by as many as ten reputable citizens of the county who are tax pawers, and such associate attorney shall be recognized by the court or judge before whom the case is pending for trial as associate counsel, and no such prosecution shall be dismissed over the objection of such associate counsel until the reasons of the county attorney for such dismissal together with any objections thereto which the associate counsel may desire to present shall have been filed in writing and fully heard and considered by the court and such written reasons and objections shall be filed in the cause and preserved as a part of the court papers.

8. That any willful failure or neglect upon the part of any solicitor or sheriff to perform any duty required of him by this act shall constitute willful neglect of duty, and shall authorize his impeachment and removal from office in accordance with the law and constitution of the State providing for and regulating the impeachment of such officers by a proceeding before the supreme court of the State.

9. That this act shall take effect from and after its passage, the public welfare requiring it.

Approved August 25th, 1909.

No. 86.) AN ACT (H. 5.

To amend section 7424 of the Code of Alabama, 1907.

Be it enacted by the Legislature of Alabama, That section 7424 of the Code of Alabama, 1907, be amended so as to read as follows: 7424. Re-Section 7424 amended.  
ports of mutual aid associations. Any officer or agent of a mutual aid association as defined by law, whose duty it is to make the annual report to the insurance commissioner, or designate the principal place of business, or agent for service of process of such association, as required by law, and who fails so to do, or who makes a false report, must, on conviction, be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned in the county jail for not less than ten days nor more than one year.

Approved August 25, 1909.

No. 89.) AN ACT (H. B. 62.

To prohibit misrepresentations, rebating and discriminations by life insurance companies, and prohibiting the insurance of certain special contracts and the sale and issuance of stocks, bonds or other securities in connection with the sale of life insurance.

Section 1. Be it enacted by the Legislature of Alabama, That no life insurance company doing

Unlawful to  
issue state-  
ment misrep-  
resenting  
terms or any  
policy, etc.

Life com-  
pany shall not  
issue policy  
that does not  
show descrip-  
tion, etc., fully  
on its face.

Violation mis-  
demeanor.

Company vio-  
lating shall  
have cer-  
tificate sus-  
pended.

No company  
shall permit  
distinction,  
etc., between  
insurants, etc.

Unlawful to  
make contract  
other than  
agreed in pol-  
icy.

business in this State, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall any such company, agent or broker make any misrepresentation to any person insured in such company or in any other company for the purpose of inducing or tending to induce any person to lapse, forfeit or surrender his insurance. No life insurance company transacting business under the provisions of this act shall issue a policy to a resident of this State which does not bear in bold letters on its face a plain description of the policy, so fully defining its character including dividend periods and other peculiarities, that the holder thereof shall not be liable to mistake the nature or scope of the contract. Violation of this section by an agent or officer of any insurance company, shall be a misdemeanor and punished by a fine not less than one hundred dollars nor more than five hundred dollars or imprisonment in the county jail for thirty (30) days, or by both such fine and imprisonment; and if a company violates or participates in the violation of this section, such company shall have its certificate of authority to do business in this State suspended for a period not exceeding one year.

Section 2. No life insurance company doing business in this State shall make or permit any distinction or discrimination in favor of individuals between insurants (the insured) of the same class and equal expectation of life in the amount of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than is plainly expressed in the policy issued thereon; nor shall

any such company or any officer, agent, collector or representative thereof pay, allow or give or offer to pay, allow or give directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance; nor give, sell or purchase or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever, not specified in the policy.

Every officer or agent of any insurance company doing business in this State, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined a sum not less than one hundred dollars (\$100.00), nor exceeding five hundred dollars (\$500.00), or imprisonment in the county jail thirty (30) days or both, in the discretion of the court, and shall pay the costs of the prosecution.

It shall be the duty of the commissioner upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Section 3. From and after the date this act takes effect no life insurance company shall issue in this State, nor permit its agents, officers or employees to issue in this State, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and on and after January 1st, 1910, no life insurance company shall be authorized to do business in this State, which issues or permits its agents, officers or employees to issue in the State of Alabama, agency company stock or other stock or securities, or any special or advisory board or other contract of any

Shall not allow rebates, etc.

Agent, etc., violating this section guilty of misdemeanor.

Commissioner when satisfied of violation shall revoke certificate of company or agent.

Unlawful to issue agency stock, advisory board or other contracts, etc.

Company not authorized to do business which issues, etc. agency stock, etc.

Duty of commissioner to revoke license.

kind promising returns and profits as an inducement to insurance, and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to sell or give, or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance, or in connection therewith; provided, that nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to the enactment hereof, or prevent the payment of the dividends or returns therein stipulated to be paid. It shall be the duty of the commissioner upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Insurance commissioner agent for service of legal process.

Section 4. No life insurance corporation not now authorized to transact business in this State, shall sell or offer to sell, its stock, or permit the same to be sold or offered for sale, by any firm, company or other corporation to the citizens of this State until such life insurance company secures permit for the sale of its stock from the insurance commissioner. Before such permit can be granted for the sale of the stock of any life insurance company in this State, directly or indirectly by itself or by any person, firm or other corporation, such life insurance company shall file with the insurance commissioner a duly certified copy of its articles of incorporation and designate the insurance commissioner attorney for the service of legal process as required of foreign corporations by section 3642 of the Code of Alabama, 1907, and shall file with the insurance commissioner such other information with reference to its proposed plans of transacting business in this State as the insurance commissioner may require. If after an examination of such articles of incorporation and upon being otherwise satisfied that the business proposed to be transacted by such insurance company in the State, is proper and right under the



laws of this State, then the insurance commissioner shall issue to such insurance company a permit to place its stock in Alabama, provided, however, that every person in any manner whatsoever connected with the sale of such stock in the State shall obtain a permit from the insurance commissioner to act as the agent for the sale of stock of such insurance company in this State.

Section 5. For failure or refusal to obtain permit required in section 4 of this act, such insurance company so failing or refusing to obtain such permit shall be forever barred from admission to this State to transact an insurance business and if any person, firm or corporation in any manner represents as agent or otherwise, such insurance company for the sale of its stock, or for any other purpose, before such insurance company secures the permit required in section 4 of this act, such person, firm or corporation shall be subject to the penalties provided in section 1 of this act.

Section 6. Be it further enacted that all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Section 7. That the provisions of this act shall become effective upon approval by the governor.

No. 93.)

AN ACT

(S. 80.

To amend section 6 of an act approved July 17, 1907, entitled 'an act to amend sections 6, 9, 10, 16, 17, 19 and 20 of an act entitled an act to provide for the re-districting of the public schools of the State and for the management and control of the same, approved September 30, 1903.

Section 1. Be it enacted by the Legislature of Alabama, That section 6 of an act approved July 17th, 1907, entitled "an act to amend sections 6, 9, 10, 16, 17, 19 and 20 of an act entitled an act providing for the re-districting of the public schools of the State and for the management and control of the same, approved September 30,

1903," be and the same is hereby amended so as to read as follows: Section 6. That section 19 of said act be and the same is hereby amended so as to read as follows: The provisions of this act shall not apply to any county heretofore restricted by authority of a special law and which has a special levy from the county for the support of the public schools therein; or to any city or town where the members of the board of education hold office for life under any act of the Legislature of Alabama approved prior to Feb. 15, 1891, but all other general, special, private or local laws creating or providing for any special or separate school district be and the same are hereby repealed.

Approved Aug. 25, 1909.

No. 100.)

AN ACT

(H. 263.

To regulate the writing of fire insurance, and to prohibit the furnishing of information concerning same to those not authorized by law to receive such information, and to provide penalties for violations of the provisions of this act.

Unlawful to disclose rates, etc. to agent, etc. of another fire company.

Section 1. Be it enacted by the Legislature of Alabama, That on and after the first day of January, 1910, it shall be unlawful for any agent, or any one acting in the capacity of an agent of any fire insurance company authorized to transact business in the State of Alabama to disclose to the agent, or representative of another fire insurance company, or any one acting in the capacity of agent or representative of another fire insurance company, the rates, premiums or price at which any insurance policy has been written, without first procuring in writing the consent of the owner, or owners, of the property insured. Provided that nothing in this act shall be construed to affect or prevent *bona fide* reinsurance contracts; and provided further that nothing in this act shall be construed to prevent members of rate making associations or similar bodies, from disclosing to other members of such associations, or bodies, the rates, prices, or premiums at which insurance may be written.

Section 2. Any person violating the provisions of this act shall be punished by a fine of not less than \$25.00 (Twenty-five dollars) and not more than \$100.00 (One hundred dollars), or be imprisoned for not less than thirty (30) nor more than ninety (90) days, or both, at the discretion of the court.

Violations  
punishable  
by fine.

Approved Aug. 25. 1909.

No. 106.)

AN ACT

(H. 54.

To amend sections 6450, 6456, 6463 and 6465 of the Code of Alabama. Be it enacted by the Legislature of Alabama.

1. That section 6450 of the Code of Alabama be amended so as to read as follows: 6450. Any child under fourteen years of age who commits any offense, which is a misdemeanor at law, or by statute, or who violates any ordinance of any municipality of this State, or who is incorrigible, or who knowingly associates with thieves, or gamblers; or who is growing up in idleness, or crime; or knowingly visits, or enters a house of ill fame, or who knowingly visits or patronizes any policy shop, bucket shop, pool room, billiard room, barroom, or club room, where liquors are kept, or drunk, or served to the members; or where any gaming table, or device for gambling is, or is operated, or who loiters about any such places; or who habitually smokes cigarettes or who wanders about the streets at night without being on any lawful business; or who habitually wanders about any railroad yard, or tracks or jumps or hooks onto any moving engine, or car; or unlawfully enters any engine, or car; or habitually uses vile, obscene, profane, or indecent language; or is found in possession of any indecent, lascivious book, print, picture, card, or paper; or is in possession of any pistol, dirk, bowie knife, or of metal knuckles; or is guilty of immoral conduct in any public place or, or in, or about any school house, shall be deemed a juvenile delinquent person and shall be proceeded against as such, in the manner herein after provided.

Section 6450  
amended.

Section 6456  
amended.

2. That section 6456, of the Code, be amended so as to read as follows: 6456. If the child have a home, it must be preferred, unless the character, or condition of the parents, guardian, or person having control of the home of the child is such as to forbid the keeping of the child in that home; and in this case the court may commit the child to the custody of some suitable person, or home, and if the parents of the child have the means, they must be required to provide for the support of the child under the orders of the court, or if the child have an estate in the hands of a guardian, or trustee, the guardian, or trustee, must be required to pay for its support, so long as there are funds of the child in the possession, or control of the guardian, or trustee. If the child have neither parents, who are liable to provide for it, nor estate sufficient for its maintenance, then the child must be committed to any home, or school or reformatory in this State that will receive and maintain the child. If the child is not committed to a home, school, or reformatory, it must be reported to the probate court under section 2897, to be bound out as an apprentice, and if no master can be found for the child, the court of the county commissioners or board of revenue of the county of the residence of the child, shall be required by the court to pay for its reasonable and proper support, till a home, or master can be found for the child, or till it is adjudged by the court to be able to make its own living. If at any time, the court is convinced that the child can not be made to lead a correct life, the court may send it back to the court in which it is, or was charged with an offense, there to be proceeded against according to law.

Section 6463  
amended.

3. That section 6463 of the Code, be amended so as to read as follows: 6463. Whenever it appears to any court that a child under fourteen years of age stands indicted for, or charged in an affidavit with, the commission of a misdemeanor, or violation of a municipal ordinance, the court must enter an order on the minutes of the court, suspending all proceedings against the child under the indictment, or affidavit, and order that a copy of the affidavit, or indictment

and the child, be delivered to the court, having jurisdiction of proceedings under this article, and upon receipt of such copy of indictment, or affidavit, the court having jurisdiction of proceedings against juvenile delinquents must take jurisdiction under this article, and if at any time the court is convinced that the child cannot be reformed and brought to lead a correct life, then the court shall order the child returned to the court, in which the indictment, or affidavit is pending whereupon the court must proceed as though no suspension had been entered in the criminal cause.

4. That section 6465 of the Code be amended Section 6465 so as to read as follows: 6465. Whenever a child is arrested in the night time, charged with a violation of section 6450 of the Code, as amended by section 1 of this act, the officer arresting him may commit him to jail till the next morning, when he must be brought before a judicial officer having jurisdiction of offenses of delinquent children, and if at any time, in any case the court having such jurisdiction deems it just and right to commit the child to jail for safe keeping till a proper home can be found for the child, he may so commit the child to jail, but in no case shall a child under fourteen years of age be confined in the same room with an adult prisoner.

Approved August 25th, 1909.

No. 109.)

AN ACT

(H. 201.

To provide for the payment of fees and necessary expenses incurred in the capture of criminals who flee into another State, and who when captured, return without requisition from the governor.

Section 1. Be it enacted by the Legislature of Alabama, That in cases where any sheriff in this State receive notice from the authorities in another state that a party or parties is or are arrested for crime committed in this State, and the sheriff of the county in which said crime was committed goes to the State aforesaid and the

When party consents to return without requisition fees etc. same as when requisition issued.

Applies only to felonies and where conviction is had.

Applicable in cases occurring during past year and in future cases.

Repealed.

party or parties aforesaid consents to return with said sheriff without requisition from the governor, said sheriff shall be entitled to the fees and expenses now provided by law where requisitions issue. Provided, that this act shall apply only to felonies and only where conviction of the party or parties are had.

Section 2. Be it further enacted that the provisions of this bill shall apply as aforesaid, to cases that have occurred during the past year where convictions have been had and in all future cases of like character.

Section 3. Be it further enacted, That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved Aug. 25, 1909.

No. 118.)

AN ACT

(S. 5.)

To amend section 7189 of the Code of Alabama, 1907.

Any person soliciting, etc. deemed an insurance agent.

Section 1. Be it enacted by the Legislature of Alabama, That section 7189 of the Code of Alabama, 1907, be and the same is hereby amended so as to read as follows: 7189. Who are Agents of foreign Companies; penalty for acting without License.—Any person who solicits insurance on behalf of any insurance company, or takes or transmits, other than for himself, any application for insurance, or any policy for insurance, to or from such company, or in any way gives notice that he will receive or transmit the same or receives or delivers a policy of insurance of any such company, or examines or inspects a risk or receives, collects, or transmits any premium of insurance or makes or forwards any diagram of any building or buildings (except as a bona fide draughtsman), or countersigns any policy of insurance, or does or performs any other act or thing in the making or consummating of any contract of insurance with or for any insurance company, other than for himself, or examines or adjusts, or aids in adjusting any loss for or on behalf of any insurance company whether any such acts shall be done at the re-

quest or instance or by the employment of any insurance company, or of or by any other person, (except those acting as attorneys at law) is deemed an insurance agent.

Section 2. For the doing of any of the acts <sup>For the doing</sup> aforesaid until such company shall have com- <sup>of any acts</sup> plied with the laws of the State and received the <sup>aforesaid</sup> proper license or certificate of authority from <sup>person guilty</sup> the insurance commissioner authorizing it to do <sup>of a misde-</sup> business in this State and until such person <sup>meanor.</sup> shall have received the proper certificate from the insurance commissioner authorizing such person to perform any of the acts of an agent for any such company, such person shall be guilty of a misdemeanor and upon conviction, shall be fined not less than one hundred dollars nor more than five hundred dollars, or may be imprisoned in the county jail not more than thirty days, or both, at the discretion of the court. Provided, however, that the provisions of this <sup>Does not apply</sup> section shall not be construed to apply to medi- <sup>to medical</sup> cal examiners of insurance companies. <sup>examiners.</sup>

Section 3. This act shall be effective upon its <sup>Effective.</sup> approval by the governor.

Approved Aug. 25, 1909.

No. 121)

AN ACT

(S. 117

To amend section 1339 of the Code of Alabama.

Be it enacted by the Legislature of Alabama, That section 1339 of the Code of Alabama be <sup>Section 1339</sup> and the same is hereby amended so as to read <sup>amended.</sup> as follows, to wit: "1339: License to business, trade, profession, etc.—To license any exhibition, trade, business, vocation, occupation or profession not prohibited by the constitution or laws of the State which may be engaged in or carried on in the city or town; to fix the amount of licenses the time for which they are to run not exceeding one year, and provide a penalty for doing business without a license, and to charge a fee of not exceeding fifty cents for issuing each license; to require sworn statements as to the amount of capital invested, or value of goods or stocks, or amounts of sales or receipts where the

amount of the license is made to depend upon the amount of capital invested, or value of goods or stocks or amount of sales or receipts, and to punish any person or corporation for failure or refusal to furnish sworn statements or for giving of false statements in relation thereto. The license herein authorized as to persons, firms, or corporations engaged in business, in connection with the interstate commerce, shall be confined to that portion within the limits of the State, and where such person, firm or corporation has an office or transacts business in the city or town imposing the license. The power to license conferred by this article may be used in the exercise of the police power as well as for the purpose of raising revenue, one or both. Provided, that after the year 1909 no license or privilege tax, or other charge for the privilege of doing business, shall be imposed by any municipal corporation upon any domestic life insurance company doing business therein, or its agents which shall exceed for the company and its agents, the following amounts:

Cities and towns having population of 5,000 or under.

(a) In cities and towns having a population of five thousand and under, according to the federal census next preceding the issuing of the license, ten dollars and one dollar on each one hundred dollars, and major fraction thereof, of gross premiums received during the preceding year on policies issued in said year to citizens living in said cities and towns.

Over 5,000 and not over 10,000

(b) In cities and towns having a population over five thousand and not over ten thousand, according to said census, fifteen dollars and one dollar on each one hundred dollars, and major fraction thereof, of gross premiums received during the preceding year on policies issued during said year to citizens of said cities and towns.

Over 10,000

(c) In cities having a population over ten thousand, according to said census, twenty dollars and one dollar on each one hundred dollars, and major fraction thereof, of gross premiums received during the preceding year on policies issued during said year to citizens of said cities and towns. The amount specifically named in the schedule contained in this act shall be payable at the time and in the manner that other



privilege or license taxes are required to be paid by the laws, ordinances or charters of the several cities and towns: and the amount of said tax based on gross premiums shall be paid as hereinafter provided. Upon the payment or tender of the amount specifically named in said schedule to any city or town, any domestic life insurance company, authorized to do business in this State, shall be permitted to do business in said city or town through its agents, resident or soliciting, duly appointed in writing, which agents shall not be subject to or required to pay any privilege or occupation tax to said city or town for representing said company or soliciting business for it. On the first day of January, 1910, or within sixty days thereafter, each domestic life insurance company which did any business in, or wrote any business on the life of any citizen or resident of, any city or town in this State during any part of the year 1909, and on the first day of January or within sixty days thereafter, of each year after the year 1910, each domestic life insurance company which did any business in, or wrote any business on the life of any citizen or resident of, any city or town in this State during any part of the next preceding year, shall, if a license or privilege tax is imposed by said city or town on any domestic life insurance companies, furnish the mayor or other executive head of said city or town a statement in writing, verified by the affidavit of the president, vice-president, or secretary of the company, which statement shall set out and show the full and true amount of gross premiums received during the preceding year on all policies of life insurance issued in such city or town during said preceding year and shall accompany said statement with the amount of license due from said company. Failure to furnish said statement or to pay said amount to any city or town, as herein required, shall, if so provided by the ordinances of the city or town, cause a forfeiture of the right of the company so failing, or its agents, to continue to do business in said city or town until said statement shall have been furnished and said sum shall have been paid, and shall subject the company and its agents to such penalties as

the ordinances of said city or town may prescribe, not exceeding the penalties imposed upon other corporations or persons for failure to pay license or privilege taxes. All laws or parts of laws, local or general, in conflict or inconsistent with the provisions of this act are hereby repealed.

Approved August 25, 1909.

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No. 123)                      AN ACT                      (S. 102)

To amend section 5231 of the Code of Alabama of 1907.

Section 5231  
amended.

Chancery  
court shall  
have original  
jurisdiction to  
divide, sell,  
etc. property,  
etc.

Be it enacted by the Legislature of Alabama, That section 5231 of the Code of Alabama of 1907 be, and it hereby is amended so as to read as follows: 5231. The chancery court shall have original jurisdiction to divide or partition, or sell for partition, any property, real or personal, held by joint owners or tenants in common; whether the defendant denies the title of complainant or sets up adverse possession or not; and the court in exercising its jurisdiction shall proceed according to its own practices.

Approved Aug. 25, 1909.

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No. 131)                      AN ACT                      (S. 47)

To amend section 5882 of the Code of Alabama.

Section 5882  
amended.

Be it enacted by the Legislature of Alabama, That section 5882 of the Code of Alabama be and the same is hereby amended so as to read as follows: Whenever one-fourth of the bona fide freeholders residing in any precinct in any county owning a freehold estate in any such precinct, shall file with the court of county commissioners or court of like jurisdiction of the county, a petition in writing stating that they desire an election in such precinct to ascertain whether or not a majority of the qualified electors of such precinct desire or favor a law prohibiting the running at large of stock in that part of the precinct which is outside of any incorporated city or

town, and shall deposit with the probate judge of the county an amount of money sufficient to defray the expenses of holding such election, it shall be the duty of the court of county commissioners or court of like jurisdiction to file such petition with date of such filing, and to proceed to inquire and ascertain whether or not the petition is signed by one-fourth of the bona fide holders residing in, or owning freehold estates in the precinct, and shall endorse thereon and spread on the minutes of the court such findings, and an order that an election shall be held in such precinct on a day to be named in such order, not less than forty or more than ninety days from the date of the filing of such petition to determine whether or not stock shall be permitted to run at large in that part of the precinct which is outside of such incorporated city or town. It shall be the duty of the persons filing such petition to post in five public places, in such precinct, or five places in every precinct embraced in said petition, notice in writing stating the time and place of the holding of such election and the purposes thereof, and shall publish said notice once a week for three consecutive weeks in some newspaper published in the county.

May hold election when 1-4 bona fide freeholders, etc., file petition, etc.

shall publish notice.

Approved August 25, 1909.

No. 134)

AN ACT

(S. 17

To amend section 4557 of the Code of Alabama of 1907.

Section 1. Be it enacted by the Legislature of Alabama, That section 4557 of the Code of Alabama, 1907, be amended so as to read as follows: 4557. Gross premiums received must be stated, and taxes and penalties must be paid.—All companies must state the total amount of gross premiums received, designating the amount received in this State, and shall at the same time pay to the insurance commissioner the following amounts—that is to say, each fire insurance company shall pay the sum of one and one-half dollars of each one hundred dollars of said gross premiums less return premiums, so received in

Section 4557 amended.

Gross premiums received must be stated.

Penalty for  
failure.

this State, and every other insurance company shall pay the sum of two dollars upon each one hundred dollars of said gross premiums less return premiums so received in this State; and the company neglecting to make such returns accurately and in full at the time of filing the annual statement, or at the time at which any such company discontinues business in the State, shall pay to the State, in addition to said taxes, the sum of five hundred dollars within sixty days from the date of notice of such delinquency, and shall be debarred from transacting any business of insurance in this State until said taxes and penalties are fully paid.

Effective.

Section 2. That this act shall be effective on the first day of January, 1910.

Approved August 25, 1909.

No. 146)

AN ACT

(S. 62

To define and regulate negotiable instruments.  
Form and Interpretation.

Form of;  
conditions;  
when payable;  
to whom payable.

Sec. 1. Be it enacted by the Legislature of Alabama, That an instrument to be negotiable must conform to the following requirements: 1. It must be in writing and signed by the maker or drawer. 2. It must contain an unconditional promise or order to pay a sum certain in money. 3. Must be payable on demand or at a fixed or determinable future time. 4. Must be payable to order or to bearer; and 5. where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

Sum payable.

Sec. 2. The sum payable is a sum certain within the meaning of this act, although it is to be paid: 1. With interest; or, 2. By stated installments. 3. By stated installments, with a provision that upon default in payment of any installment, or of interest, the whole shall become due; or, 4. With exchange, whether at a fixed rate or at the current rate; or 5. With cost of collection or an attorney's fee, in case payment shall not be made at maturity.

Sec. 3. An unqualified order or promise to pay is unconditional within the meaning of this act, though coupled with: 1. An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or, 2. A statement of the transaction which gives rise to the instrument. But an order or promise to pay out of a particular fund is not unconditional.

Sec. 4. An instrument is payable at a determinable future time, within the meaning of this act, which is expressed to be payable: 1. At a fixed period after date or sight; or 2. On or before a fixed or determinable future time specified therein; or 3. On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain. An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

Sec. 5. An instrument which contains an order or promise to do an act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which: 1. Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or 2. Authorize a confession of judgment if the instrument be not paid at maturity; or 3. Waives the benefit of any law intended for the advantage or protection of the obligator; or 4. Give the holder an election to require something to be done in lieu of payment of money. But nothing in this section shall validate any provision or stipulation otherwise illegal.

Sec. 6. The validity and negotiable character of an instrument are not affected by the fact that: 1. It is not dated; or 2. Does not specify the value given, or that any value has been given therefor; or 3. Does not specify the place where it is drawn or the place where it is payable; or 4. Bears a seal; or 5. Designates a particular kind of current money in which payment is to be made. But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

Instrument payable on demand.

Sec. 7. An instrument is payable on demand: 1. Where it is expressed to be payable on demand or at sight, or on presentation; or 2. In which no time for payment is expressed. 3. Where an instrument is issued, accepted or indorsed when overdue, it is as regards the person so issuing, accepting or indorsing it, payable on demand.

Payable to order.

Sec. 8. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of: 1. A payee who is not a maker, drawer or drawee; or 2. The drawer or maker; or 3. Two drawee; or 4. Two or more payees jointly; or 5. One or some of several payees; or 6. The holder of an office for the time being. Where the instrument is payable to order, the payee must be named or otherwise indicated therein with reasonable certainty.

Payee must be named.

Payable to bearer.

Sec. 9. The instrument is payable to bearer: 1. When it is expressed to be so payable; or 2. When it is payable to a person named therein or bearer; or 3. When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or 4. When the name of the payee does not purport to be the name of any person; or 5. When the only or last indorsement is an indorsement in blank.

Need not follow language of this act.

Sec. 10. The negotiable instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements thereof.

Sec. 11. When the instrument or an acceptance of any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance or indorsement as the case may be.

Not invalid for reason that it is anti-dated, etc., when not due for illegal purposes.

Sec. 12. The instrument is not invalid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

Holder may insert true date.

Sec. 13. When an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument

payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course, but as to him, the date so inserted is to be regarded as the true date.

Sec. 14. Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And the signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion is negotiated to a holder in due course it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

Person in possession has prima facie authority to fill up blanks, etc.  
Must be filled in accordance with authority given, etc.

Sec. 15. Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

Not valid contract.

Sec. 16. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument

Contract incomplete until delivery, etc.

Delivery pre-  
sumed.

Rules of con-  
struction  
where language  
is ambiguous.

is in the hands of holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him, is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

Sec. 17. Where the language of the instrument is ambiguous, or there are omissions therein the following rules of construction apply: 1. Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount. 2. Where the instrument provides for the payment of interest without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated from the issue thereof. 3. Where the instrument is not dated, it will be considered to be dated as of the time it was issued. 4. Where there is conflict between the written and printed provisions of the instrument the written provisions prevail. 5. Where the instrument is so ambiguous that there is doubt whether it is a bill or a note, the holder may treat it as either at his election. 6. Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser. 7. Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

Sec. 18. No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Signature may  
be by agent.

Sec. 19. The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

Sec. 20. Where the instrument contains, or a person adds to his signature, words indicating



that he signs for or on behalf of the principal, or As to liability of agent, etc. in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character without disclosing his principal, does not exempt him from personal liability.

Sec. 21. A signature by "procuration" operates as notice that the agent has but limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority. Signature by "procuration."

Sec. 22. The indorsement or assignment of the instrument by a corporation or by an infant Indorsement, etc. by corporation or by an infant. passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Sec. 23. Where a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority. Where signature is forged.

#### Consideration.

Sec. 24. Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration, and every person whose signature appears thereon to have become a party thereto for value.

Sec. 25. Value is any consideration sufficient to support a simple contract. And antecedent or pre-existing debt constitutes value, and is deemed such, whether the instrument is payable on demand or at a future time. Pre-existing debt constitutes value.

Sec. 26. Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time.

Sec. 27. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien. Where holder has a lien.

**Absence of consideration.**

Sec. 28. Absence or failure of consideration is a matter of defense as against any person not a holder in due course, and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

**Accommodation party.**

Sec. 29. An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor; and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

**Liable to holder for value.**

### Negotiation.

**Instrument, when negotiated.**

Sec. 30. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof; if payable to bearer, it is negotiated by delivery; if payable to order, it is negotiated by the indorsement of the holder completed by delivery.

**Indorsement.**

Sec. 31. The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

**Indorsement must be of entire instrument, etc.**

Sec. 32. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.

**Indorsement blank or special.**

Sec. 33. An indorsement may be either in blank or special; and it may also be either restricted or qualified, or conditional.

**Indorsement special.**

Sec. 34. A special indorsement specifies the person to whom or to whose order the instrument is to be payable, and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer, and may be negotiated by delivery.

**Indorsement blank.**

Sec. 35. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement. Blank indorsement may be converted into special.

Sec. 36. An indorsement is restrictive which either: 1. Prohibits the further negotiation of the instrument; or 2. Constitutes the indorsee the agent of the indorser; or 3. Vests the title in the indorsee in trust for or to the use of some other person. But the mere absence of words implying power to negotiate does not make an indorsement restrictive. Restrictive indorsement.

Sec. 37. A restrictive indorsement confers upon the indorsee the right: 1. To receive payment of the instrument. 2. To bring any action thereon that the indorser could bring. 3. To transfer his rights as such indorser, where the form of the indorsement authorizes him to do so. But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement. Restrictive indorsement confers rights, etc.

Sec. 38. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument. Qualified indorsement.

Sec. 39. Where an indorsement is conditional a party required to pay the instrument may disregard the condition, and make a payment to the indorsee or his transferee, whether the conditions have been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally. Conditional indorsement.

Sec. 40. Where an instrument, payable to bearer, is indorsed specially, it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorsed to only such holders as take title through his indorsement. Special indorsement; negotiated by delivery; liability.

Sec. 41. Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse unless the one Instrument payable to order of two or

more; all in- indorsing has authority to indorse for the oth-  
dorse. ers.

**Instrument drawn to bank official.** Sec. 42. Where an instrument is drawn or indorsed to a person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer.

**Wrongful designation.** Sec. 43. Where the name of the payee or indorsee is wrongfully designated or misspelled, he may indorse the instrument as therein described, adding, if he think fit, his proper signature.

**Indorsement in representative capacity.** Sec. 44. Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

**Date of indorsements.** Sec. 45. Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

**Indorsement prima facie at place or date.** Sec. 46. Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

**Negotiable at origin, continues, except.** Sec. 47. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

**Owner may strike out.** Sec. 48. The owner may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

**Transfer without indorsement, etc.** Sec. 49. Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the said holder had therein and the transferee acquires, in addition, the right to have the indorsement of the said holder, for the purpose of transferring title only. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

Sec. 50. Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of this act, reissue and further negotiate the same—but he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

### Rights of Holder.

Sec. 51. The holder of a negotiable instrument may sue thereon in his own name and pay-  
ment to him in due course discharges the instrument.

Sec. 52. A holder in due course is a holder who has taken the instrument under the following conditions: 1. That the instrument is complete and regular upon its face. 2. That he became the holder of it before it was overdue, and without notice that it had been previously dishonored if such was the fact. 3. That he took it in good faith and for value. 4. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

Sec. 53. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue the holder is not deemed a holder in due course.

Sec. 54. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

Sec. 55. The title of a person who negotiates an instrument is defective within the meaning of this act when he obtained the instrument or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amounts to a fraud.

Sec. 56. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such

Holder in due course holds free from defect, etc.

Instrument subject to same defense on non-negotiable.

Every holder prima facie holder in due course.

Maker of instrument.

Drawer of instrument admits existence, etc.

Acceptor; admission.

facts that his action in taking the instrument amounted to bad faith.

Sec. 57. A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

Sec. 58. In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

Sec. 59. Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course. But the last mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

#### Liabilities of Parties.

Sec. 60. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

Sec. 61. The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse, and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

Sec. 62. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance and admits: 1.

The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and 2. The existence of the payee and his then capacity to indorse.

Sec. 63. A person placing his signature upon an instrument otherwise than as a maker, draw-<sup>Indorser de-</sup>er or acceptor is deemed to be an indorser, un-<sup>finer, excep-</sup>less he clearly indicates by appropriate words his intention to be bound in some other capacity.

Sec. 64. Where a person, not otherwise a<sup>Signature in</sup> party to an instrument, places thereon his signa-<sup>blank before</sup>ture in blank before delivery, he is liable as in-<sup>delivery; rules.</sup>dorser in accordance with the following rules:

1. If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties. 2. If the instrument is payable to the order of the maker or drawer or is payable to bearer, he is liable to all parties subsequent to the maker or drawer. 3. If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

Sec. 65. Every person negotiating an instru-<sup>Persons ne-</sup>ment by delivery or by a qualified indorsement,<sup>gotiating in-</sup>warrants, 1. That the instrument is genuine in<sup>strument war-</sup>all respects that it purports to be. 2. That he<sup>rants, etc.</sup>has a good title to it. 3. That all prior parties had capacity to contract. 4. That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless. But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee. The provisions of subdivision three of this section do not apply to persons negotiating public or corporate securities, other than bills and notes.

Sec. 66. Every indorser who indorses without<sup>Indorsers' war-</sup>qualification, warrants to all subsequent holders<sup>rants.</sup> in due course: 1. The matters and things mentioned in subdivisions 1, 2 and 3 of the next preceding section; and 2. That the instrument is at the time of his indorsement valid and subsisting. And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subse-

**Liability.**

quent indorser who may be compelled to pay it.  
 Sec. 67. Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

**Indorsers liable prima facie in order of indorsement.**

Sec. 68. As respects one another, indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsers who indorse are deemed to indorse jointly and severally.

**Joint payee or joint indorser.****Broker or agent incurs liability.**

Sec. 69. Where a broker or other agent negotiates an instrument without indorsement, he incurs all the liabilities prescribed in section 65 of this act, unless he discloses the name of his principal, and the fact that he is acting only as agent.

**Presentment for Payment.****Presentment for payments, etc.**

Sec. 70. Presentment for payment is not necessary in order to charge the person primarily on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

**Not payable on demand; must be presented on day falls due; payable on demand, etc.**

Sec. 71. Where the instrument is not payable on demand presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

**Presentment for payment, conditions.**

Sec. 72. Presentment for payment to be sufficient, must be made: 1. By the holder, or by some person authorized to receive payment on his behalf. 2. At a reasonable hour on a business day. 3. At a proper place as herein defined. 4. To the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

**Presentment for payment at proper place.**

Sec. 73. Presentment for payment is made at the proper place: 1. Where a place of payment is specified in the instrument and it is there pre-



sented. 2. Where no place of payment is specified and the address of the person to make payment is given in the instrument and it is there presented. 3. Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment. 4. In any other case, if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

Sec. 74. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it. Instrument exhibited.

Sec. 75. Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient. Instrument payable at a bank.

Sec. 76. Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if with the exercise of reasonable diligence he can be found. Person liable dead, presentment made to personal representative.

Sec. 77. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm. Partners, liable, presentment made to any one of them.

Sec. 78. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all. Several persons liable, presentment to all.

Sec. 79. Presentment for payment is not required in order to charge the drawers where he has no right to expect or to require that the drawee or acceptor will pay the instrument. Presentment not required.

Sec. 80. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation, and he has no reason to expect that the instrument will be paid if presented. Presentment not required.

Sec. 81. Delay in making presentment for payment is excused when the delay is caused by Delay in presentment excused.

circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

**Presentment dispensed with.**

Sec. 82. Presentment for payment is dispensed with: 1. Where after the exercise of reasonable diligence presentment as required by this act cannot be made. 2. Where the drawee is a fictitious person. 3. By waiver of presentment, express or implied.

**Honored by non-payment.**

Sec. 83. The instrument is dishonored by non-payment when: 1. It is duly presented for payment and payment is refused or can not be obtained; or 2. Presentment is excused and the instrument is overdue and unpaid.

**Dishonored by non-payment.**

Sec. 84. Subject to the provisions of this act, when the instrument is dishonored by non-payment, an immediate right of recourse to all parties secondarily liable thereon, accrues to the holder.

**Every instrument payable at time fixed without grace.**

Sec. 85. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock noon on Saturday, when that entire day is not a holiday.

**Fixed period, time of payment determined.**

Sec. 86. Where the instrument is payable at a fixed period after date after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

**Payable at a bank, equivalent to an order to pay.**

Sec. 87. Where the instrument is made payable at a bank, it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

**Payment in due course.**

Sec. 88. Payment is made in due course when it is made at or after maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

### Notice of Dishonor.

Sec. 89. Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

Sec. 90. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who, upon taking it up, would have a right to reimbursement from the party to whom the notice is given.

Sec. 91. Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

Sec. 92. Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

Sec. 93. Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

Sec. 94. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice, has himself the same time for giving notice as if the agent had been independent holder.

Sec. 95. A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate unless the party to whom the notice is given is in fact misled thereby.

Sec. 96. The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument and indicate that it has been dishonored by non acceptance or non payment. It may in all cases be given by delivering it personally or through the mails.

Notice dishonor.

Sec. 97. Notice of dishonor may be given either to the party himself or to his agents in that behalf.

Death of any party, notice to personal representative.

Sec. 98. Where any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence, he can be found. If there be no personal representative, notice may be sent to the last residence or place of business of the deceased.

Notice to partners.

Sec. 99. Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

Notice joint partners.

Sec. 100. Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

Notice to bankrupt.

Sec. 101. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of his creditors, notice may be given either to the party himself or to his trustee or assignee.

Notice in fixed time.

Sec. 102. Notice may be given as soon as the instrument is dishonored, and unless delay is excused as hereinafter provided, must be given within the times fixed by this act.

Time of notice.

Sec. 103. Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times: 1. If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following. 2. If given at his residence, it must be given before the usual hours of rest, on the day following. 3. If sent by mail, it must be deposited in the postoffice in time to reach him in the usual course on the day following.

Time of notice.

Sec. 104. Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times: 1. If sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor, or, if there be no mail at a convenient hour on that day, by the next mail thereafter. 2. If given otherwise than through the postoffice, then within the time that

notice would have been received in due course by mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

Sec. 105. Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to have given due notice notwithstanding any miscarriage in the mails. Dishonor notice by mail.

Sec. 106. Notice is deemed to have been deposited in the postoffice when deposited in any branch postoffice or in any letter box under the control of the postoffice department, with proper postage affixed. Postoffice.

Sec. 107. Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor. Party receiving notice.

Sec. 108. Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows: 1. Either to the postoffice nearest to his place of residence, or to the postoffice where he is accustomed to receive his letters, or 2. If he lives in one place, and has his place of business in another, notice may be sent to either place; or 3. If he is sojourning in another place, notice may be sent to the place where he is sojourning. But where the notice is actually received by the party within the time specified in this act, it will be sufficient, though not sent in accordance with the requirements of this section. Address added, notice how sent.

Sec. 109. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied. Notice waived.

Sec. 110. Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only. Waiver binding.

Sec. 111. A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a former protest, but also of a presentment and notice of dishonor. Waiver of protest.

Sec. 112. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, Notice dishonor dispensed.

pensed with. it can not be given to or does not reach the parties sought to be charged.

Notice excused. Sec. 113. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.

Notice required in certain cases. Sec. 114. Notice of dishonor is not required to be given to the drawer in either of the following cases: 1. Where the drawer and the drawee are the same person. 2. Where the drawee is a fictitious person or a person not having capacity to contract. 3. Where the drawer is the person to whom the instrument is presented for payment. 4. Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument. 5. Where the drawer has countermanded payment.

Notice not required in certain cases. Sec. 115. Notice of dishonor is not required to be given to an indorser in either of the following cases: 1. Where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the instrument. 2. Where the indorser is the person to whom the instrument is presented for payment. 3. Where the instrument was made or accepted for his accommodation.

Notice by non-acceptance. Sec. 116. Where due notice of dishonor by non acceptance has been given, notice of the subsequent dishonor by non payment is not necessary, unless in the meantime the instrument has been accepted.

Omission of notice. Sec. 117. An omission to give notice of dishonor by non acceptance does not prejudice the rights of a holder in due course subsequent to the omission.

Instrument may be protested. Sec. 118. Where any negotiable instrument has been dishonored it may be protested for non acceptance or non payment as the case may be; but protest is not required except in the case of foreign bills of exchange.

#### Discharge of Negotiable Instruments.

Discharge of negotiable instruments. Sec. 119. A negotiable instrument is discharged: 1. By payment in due course by or on behalf of the principal debtor. 2. By payment in

due course by the party accommodated, where the instrument is made or accepted for accommodation. 3. By the intentional cancellation thereof by the holder. 4. By any other act which will discharge a simple contract for the payment of money. 5. When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

Sec. 120. A person secondarily liable on the instrument is discharged: 1. By an act which discharges the instrument. 2. By the intentional cancellation of his signature by the holder. 3. By the discharge of a prior party. 4. By a valid tender of payment made by a prior party. 5. By a release of the principal debtor unless the holder's right of recourse against the party secondarily liable is expressly reserved. 6. By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable or unless the right of recourse against such party is expressly reserved.

Sec. 121. Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements and again negotiate the instrument, except: 1. Where it is payable to the order of a third person, and has been paid by the drawer; and 2. Where it was made or accepted for accommodation it has been paid by the party accommodated.

Sec. 122. The holder may expressly renounce his rights against any party to the instrument before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument, discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

Sec. 123. A cancellation made unintentionally, or under a mistake, or without authority of

Person secondarily liable.

When paid by secondary party liable.

Holder may remove rights.

Cancellation, incorporation.

the holder, is inoperative; but where an instrument or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that cancellation was made unintentionally, or under a mistake or without authority.

When altered  
without as-  
sent of all  
parties.

Sec. 124. Where a negotiable instrument is materially altered without the assent of all the parties thereon, it is avoided except as against a party who has himself made, authorized or assented to the alteration and subsequent indorsers. But where an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

Alterations,  
changes.

Sec. 125. Any alteration which changes: 1. The date. 2. The sum payable, either for principal or interest. 3. The time or place of payment. 4. The number or the relations of the parties. 5. The medium or currency in which payment is to be made. Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

#### BILLS OF EXCHANGE.

##### Form and Interpretation.

Bill of ex-  
change.

Sec. 126. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer.

Does not op-  
erate as assign-  
ment.

Sec. 127. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

Addressed to  
two or more;  
exception.

Sec. 128. A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Inland bill of  
exchange.

Sec. 129. An inland bill of exchange is a bill which is, or on its face purports to be, both



drawn and payable within this State. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

Sec. 130. Where in a bill drawer and drawee <sup>Holder to treat</sup> are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument at his option, either as a bill of exchange or a promissory note. <sup>at his option.</sup>

Sec. 131. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonored by non acceptance or non payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may see fit. <sup>Drawer may insert name, etc.</sup> <sup>Referee.</sup>

#### Acceptance.

Sec. 132. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money. <sup>Acceptance.</sup>

Sec. 133. The holder of the bill presenting the same for acceptance may require that the acceptance be written on the bill, and if such request is refused, may treat the bill as dishonored. <sup>Acceptance written.</sup>

Sec. 134. Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, in the faith thereof, receives the bill for value. <sup>Acceptor not bound.</sup>

Sec. 135. An unconditional promise in writing to accept the bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value. <sup>Actual acceptance.</sup>

Sec. 136. The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill, but the acceptance if given dates as of the day of presentation. <sup>Time of acceptance.</sup>

Sec. 137. Where a drawee to whom a bill is delivered for acceptance destroys the same, or re- <sup>Drawee; destroys a bill;</sup>

- acceptance.** fuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or non accepted to the holder, he will be deemed to have accepted the same.
- Acceptance before signing.** Sec. 138. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by non acceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement is entitled to have the bill accepted as of the date of the first presentment.
- Acceptance, date of first presentment.**
- General or qualified.** Sec. 139. An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.
- Particular place of payment.** Sec. 140. An acceptance to pay at a particular place is a general acceptance unless it expressly states that the bill is to be paid there only, and not elsewhere.
- Acceptance qualified.** Sec. 141. An acceptance is qualified, which is: 1. Conditional; that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated. 2. Partial, that is to say, an acceptance to pay part only the amount for which the bill is drawn. 3. Local; that is to say, an acceptance to pay only at a particular place. 4. Qualified as to time. 5. The acceptance of some one or more of the drawees, but not of all.
- Holder may refuse to take acceptance.** Sec. 142. The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by non acceptance. Where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must within a reasonable time express his dissent to the holder, or he will be deemed to have assented thereto.

### Presentment for Acceptance.

Sec. 143. Presentment for acceptance must be made: 1. Where the bill is payable after sight, or in any other case where presentment for acceptance is necessary in order to fix the maturity of the instrument; or 2. Where the bill expressly stipulates that it shall be presented for acceptance; or 3. Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee. In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

Sec. 144. Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and indorsers are discharged.

Sec. 145. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day, and before the bill is overdue, to the drawer or some person authorized to accept or refuse acceptance on his behalf; and: 1. Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only. 2. Where the drawee is dead, presentment may be made to his personal representatives. 3. Where the drawee has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of his creditors, presentment may be made to him or to his trustee or assignee.

Sec. 146. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections seventy-two and eighty-five of this act. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock noon on that day.

Sec. 147. Where the holder of a bill drawn payable elsewhere than at the place of business or residence of the drawee has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caus-

	ed by presenting the bill for acceptance before presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.
Presentment excused.	Sec. 148. Presentment for acceptance is excused and a bill may be treated as dishonored by non-acceptance in either of the following cases: 1. Where the drawee is dead or has absconded or is a fictitious person or a person not having capacity to contract by bill. 2. Where after the exercise of reasonable diligence presentment can not be made. 3. Where although presentment has been irregular, acceptance has been refused on some ground.
How bill dishonored.	Sec. 149. A bill is dishonored by non acceptance: 1. When it is duly presented for acceptance and such an acceptance as is prescribed by this act is refused or can not be obtained; or 2. When a presentment for acceptance is excused and the bill is not accepted.
When duly presented; treated as dishonored.	Sec. 150. Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by non acceptance, or he loses the right of recourse against the drawer and indorsers.
Right of recourse.	Sec. 151. When a bill is dishonored by non acceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder, and no presentment for payment is necessary.
	Protest.
Protest.	Sec. 152. Where a foreign bill appearing on its face to be such is dishonored by non acceptance, it must be duly protested for non acceptance, and where such a bill which has not previously been dishonored by non acceptance is dishonored by non payment, it must be duly protested for non payment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof, in case of dishonor, is unnecessary.
Annexed to copy, etc.	Sec. 153. The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it and must specify: 1. The time and place of presentment. 2. The fact that presentment was made and the manner thereof. 3. The cause or

reason for protesting the bill. 4. The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

Sec. 154. Protest may be made by: 1. A notary public; or 2. By any respectable resident of the place where the bill is dishonored, or in the presence of two or more creditable witnesses. How made.

Sec. 155. When a bill is protested, such protest must be made on the day of the dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting. When made.

Sec. 156. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee, has been dishonored by non acceptance, it must be protested for nonpayment at the place where it is expressed to be payable; and no other presentment for payment to, or demand on, the drawee is necessary. Where protested.

Sec. 157. A bill which has been protested for non acceptance may be subsequently protested for non payment. For non-payment.

Sec. 158. Where the acceptor has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers. Bankrupt or assignment.

Sec. 159. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting and protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence. Dispensed with

Sec. 160. Where a bill is lost or destroyed, or is wrongfully detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof. Copy or written particulars.

#### Acceptance for Honor.

Sec. 161. Where a bill of exchange has been protested for dishonor by non acceptance, or protested for better security and is not overdue, Acceptance for honor.

any person not being a party already liable thereon, may, with the consent of the holder intervene and accept the bill *supra* protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn, and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

**Supra protest in writing.**

Sec. 162. An acceptance for honor *supra* protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

**Honor of drawer.**

Sec. 163. Where an acceptance for honor does not expressly state for whose honor it is made it is deemed to be an acceptance for the honor of the drawer.

**Liable to holder.**

Sec. 164. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

**Acceptance for honor; engagements of.**

Sec. 165. The acceptor for honor by such acceptance engages that he will, on due presentment, pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee, and provided also, that it shall have been duly presented for payment and protested for non payment and notice of dishonor given to him.

**Maturity calculated.**

Sec. 166. When a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for non acceptance and not from the date of the acceptance for honor.

**Protest before presented.**

Sec. 167. Where a dishonored bill has been accepted for honor *supra* protest or contains a reference in case of need, it must be protested for non payment before it is presented for payment to the acceptor for honor or referee in case of need.

**Presentment for payment.**

Sec. 168. Presentment for payment to the acceptor for honor must be made as follows: 1. If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its ma-

turity. 2. If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 104.

Sec. 169. The provisions of section 81 apply where there is delay in making presentment to the acceptor for honor or referee in case of need. Delay in making presentment.

Sec. 170. When the bill is dishonored by the acceptor for honor it must be protested for non payment by him. Dishonor.

### Payment for Honor.

Sec. 171. Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn. Payment for honor.

Sec. 172. The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form and extension to it.

Sec. 173. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

Sec. 174. Where two or more persons offer to pay a bill for the honor of different parties the person whose payment will discharge most parties to the bill is to be given the preference.

Sec. 175. Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

Sec. 176. Where the holder of a bill refuses to receive payment supra protest, he loses the right of recourse against any party who would have been discharged by such payment.

Sec. 177. The payer for honor on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

**Bills in a Set.****Bills in a set.**

Sec. 178. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to other parts, the whole of the parts constitute one bill.

Sec. 179. Where two or more parts of a set are negotiated to different holders in due course, the holders whose title first accrues is as between such holders, the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Sec. 180. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Sec. 181. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course he is liable on every such part as if it were a separate bill.

Sec. 182. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course he is liable to the holder thereon.

Sec. 183. Except as herein otherwise provided, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

**Promissory Notes and Checks.****Promissory  
notes and  
checks.**

Sec. 184. A negotiable promissory note within the meaning of this act is an unconditional promise in writing made by one person to another, signed by the maker engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him.

Sec. 185. A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this act ap-



plicable to a bill of exchange payable on demand apply to a check.

Sec. 186. A check must be presented for payment within a reasonable time after its issue, or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

Sec. 187. Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

Sec. 188. Where the holder of a check procures it to be accepted or certified, the drawer and all indorsers are discharged from liability thereon.

Sec. 189. A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

#### General Provisions.

Sec. 190. This act shall be known as the **Negotiable Instrument Law**. General provisions,

Sec. 191. In this act unless the context otherwise requires: "Acceptance" means an acceptance completed by delivery or notification. "Action" includes counter-claim and set-off. "Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not. "Bearer" means the person in possession of a bill or note which is payable to bearer. "Bill" means bill of exchange, and "note" means negotiable promissory note. "Delivery" means transfer of possession, actual or constructive, from one person to another. "Holder" means the payee or indorser of a bill or note who is in possession of it, or the bearer thereof. "Indorsement" means an indorsement completed by delivery. "Instrument" means negotiable instrument. "Issue" means the first delivery of the instrument complete in form, to a person who takes it as a holder. "Person" includes a body of persons, whether incorporated or not. "Value" means valuable consideration. "Written" includes printed, and "writing" includes print. Terms defined.

<b>Terms defined.</b>	Sec. 192. The person "primarily" liable on an instrument is the person who by the terms of the instrument, is absolutely required to pay the same. All other parties are "secondarily" liable.
<b>Reasonable time.</b>	Sec. 193. In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.
<b>Last day Sunday or holiday.</b>	Sec. 194. Where the day, or the last day, for doing an act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.
<b>Provisions do not apply before Jan. '08.</b>	Sec. 195. The provisions of this act do not apply to negotiable instruments made and delivered prior to the first day of January, 1908.
	Sec. 196. In any case not provided for in this act, the rules of the law merchant shall govern.
<b>Effect.</b>	Sec. 197. The provisions of this act shall become effective on its approval by the Governor.
<b>Repeal of conflicting laws.</b>	Sec. 198. All laws and parts of laws in conflict with the provisions of this act be, and the same are hereby, repealed.
	Approved August 26, 1909.

No. 65.)

AN ACT

(H. 55.

To provide for the filling of any vacant office, of the State, or any county, or any municipality, when there is no provision of law for filling such vacancy. Be it enacted by the Legislature of Alabama:

Vacancies in State, county and municipal office filled by governor.

1. That when any office of the State, of any county, or municipality thereof, is vacant from death, resignation, removal from the municipality, county, or State, or because the former incumbent absconds, or because an incumbent has been removed for ineligibility or when the office is vacant from any other cause, and there is no way provided by law for the filling of such vacant office, the governor is hereby empowered and required to appoint a qualified person to fill the unexpired term of such office.

Approved Aug. 25, 1909.

No. 80)

H. J. R. 28

H. J. R. Whereas, in the Federal courts an "attorney's tax fee" of \$20.00 in each case, under the Federal law and rule of practice is taxed and collected in favor of the attorney of the prevailing party-litigant, and whereas, there is doubt, the opinions of lawyers differing on the point, as to the the attorney general. Therefore, be it resolved by the House, the Senate concurring, that whenever the attorney general has received or may receive such "attorney's tax fee" of \$20.00 in a case in a federal court, it is to be retained by him and shall not be construed as included among the fees to which he is entitled under the law of Alabama, and which are required by law to be paid into the State treasury.

Approved August 25, 1909.

No. 92)

AN ACT

(S. 134

To amend section 3322 of the Code of 1907.

Be it enacted by the Legislature of Alabama, That section 3322 of the Code of Alabama be amended so as to read as follows: 3322 (967) (834) (739) (825) (697) Compensation of county commissioners ect. Each member of the court of county commissioners and board of revenue in each of the several counties of the State of Alabama shall be paid out of the county treasury of their respective counties for their services the sum of three dollars per day while occupied in the discharge of their duties as such members of the court of county commissioners or board of revenue, and five cents per mile in going to and returning from their respective courts, and the sum of three dollars per day while occupied in the discharge of their duties in letting out, inspecting and accepting, building or repairing of any county bridges or county buildings or works, and five cents per mile for each mile necessarily traveled by them in so doing, said sums to be paid on warrants drawn on the county treasurer on the order of the court of county commissioners or boards of revenue. And pro

Compensation of county commissioners three dollars per day, 5 cents per mile traveled.

Allowed \$3.00 per day while inspecting building and bridge, etc.

vided further that no allowance shall be made to any commissioner for per diem or mileage for inspecting roads, bridges, etc., except when acting under authority an order of the commissioners' court previously made.

Approved August 25, 1909.

No. 107)

AN ACT

(H. 49

To regulate the employment of child labor in certain mills, factories and manufacturing establishments in this State, and to provide for the inspection of the rooms, places and premises wherein they are worked, and to adequately punish violations of this act.

Be it enacted by the Legislature of Alabama:

No child under 12 years of age allowed to work in any mill.

1. No child under twelve years of age, shall be employed, or permitted to work in, or be in, or about any mill, factory, or manufacturing establishment in this State.

Between 12 and 16 years of age shall attend school at least 8 weeks.

2. No child between the ages of 12 and 16 years shall be employed, or be permitted to work, or detained in, or about any mill, factory, or manufacturing establishment in this State, unless such child shall attend school for eight weeks in every year of employment, six weeks of which shall be consecutive.

Child under 14 years of age shall be worked over 60 hours in one week.

3. No child under the age of fourteen years shall be employed, or detained in, or be in, or about any mill, factory, or manufacturing establishment within this State for more than sixty hours in any one week.

No child under 16 years of age shall be employed, etc. between 7 p. m. and 6 a. m.

4. No child under sixteen years of age shall be employed, or detained in, or be in, or about any mill, factory or manufacturing establishment within this State between the hours of seven o'clock P. M., and six o'clock A. M., standard time.

Shall not work over 8 hours in any one night.

5. No child over 16 and under 18 years of age, shall be so employed, or detained between said hours for more than eight hours in any one night.

Unlawful to employ child under 18 with-

6. It shall be unlawful for any person, firm, or corporation, to employ, or detain in, or permit to work in, or be in, or about any mill, factory,

or manufacturing establishment any child under 18 years of age, without first requiring said child to present on a blank furnished by the employer, the form of which shall be provided by the inspector, the affidavit of the parent, or guardian, or other person standing in parental relation to such child, stating the date and place of birth of said child.

7. Such affidavit shall be filed by such employer within ten days after the employment of such child in the office of the judge of probate of said county and shall be numbered and labelled with the name of the child, and a complete index thereof made and preserved as other records in said office. For the services so rendered the judge of probate shall receive from the county treasury ten cents for each such affidavit. A copy of said affidavit shall be forwarded, within ten days after the employment of such child, to the inspector at Montgomery, Alabama.

8. Any person, firm or corporation who violates any of the provisions of this chapter, or who knowingly permits any child to be employed, or detained in, or be in, or about his, their, or its mills, factory, or manufacturing establishment, contrary to the provisions of this chapter, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

9. Any person, firm, or corporation who violates any of the provisions of this chapter, or who employs any child, or knowingly permits any child to be employed, or to work in, or about, or be detained in, or be in, or about any mill, factory, or manufacturing establishment contrary to law, or who fails, or refuses, to obey promptly every lawful order, or direction given by the Inspector under this law, must on conviction be fined not less than fifty dollars, nor more than one hundred dollars, and upon a second conviction for any violation of this law, must be fined not less than one hundred nor more than five hundred dollars, and if a natural person be sentenced to hard labor for not more than six months.

**False affidavit, perjury.**

**Duty of inspector of jails and almshouses to inspect all mills, etc. where women and children are employed.**

10. Any person, who knowingly makes any false affidavit when an affidavit is required under this chapter, is guilty of perjury.

11. The inspector of jails and almshouses is charged with the duty of inspecting all mills, factories, and manufacturing establishments wherein women and children work, and he must inspect every such mill, factory, or manufacturing establishment at least four times a year if practicable, without notice of his purpose to do so. He shall thoroughly inspect such manufacturing establishment, and ascertain their sanitary condition, and whether a good supply of fresh drinking water and fresh air and suitable water closets for the women and girls are provided, separate and apart from those for the use of boys and men, and particularly the ages and conditions of the children employed, at work in, or detained therein; and shall carefully examine all affidavits filed in the probate office under this law and in connection therewith, the children named therein and all other matters concerning the operation and condition of the manufacturing establishment in which children work, or are detained, or make written orders requiring correction of defects in, or about the mill, or manufacturing establishment.

**Inspector to make report to governor.**

12. The inspector shall make written report to the governor of every examination of every manufacturing establishment inspected by him, and note every refusal or failure to comply with, or observe the law, in any respect, which reports must be published annually.

**Inspector to remove any child found working contrary to law or afflicted with disease.**

13. It shall be the duty of the inspector to remove from any mill, factory, manufacturing establishment any child found working, or detained therein contrary to law, and to remove therefrom any child who is afflicted with any infectious, contagious, or communicable disease. The judgment of the inspector as to the removal of any child shall be final and conclusive.

**Inspector to institute prosecutions for violations.**

14. It shall be the duty of the inspector to institute prosecutions against the owners, operators, managers, and superintendents of any such mill, factory, or manufacturing establishment for every violation of law that they may discover, and to furnish to the solicitor of the circuit, or

county the names and addresses of all necessary witnesses .

15. The inspector shall have free access at any time to any mill, factory, or manufacturing establishment wherein women and children work, or are detained, and no person shall refuse to allow the inspector to have free access to a manufacturing establishment and every part thereof. Inspector to have free access to all mills, etc.

16. No person shall hinder or obstruct the inspector in inspection, or make any false, or misleading statement to the inspector about the establishment, its operation, or condition, or about any person working, or detained therein. Inspector not to be hindered.

17. All persons must have a plainly printed copy of the child labor law posted up on the office and in every room in which any person works in the mill, factory, or manufacturing establishment. Copy of child labor law to be posted in mill.

18. Any person violating the three preceding sections, must, on conviction, be fined not less than one hundred nor more than five hundred dollars, and on subsequent conviction be fined not less than five hundred dollars, and may be sentenced to hard labor for not more than one year. Penalty.

19. Any owner, or manager of a mill, factory or manufacturing establishment who disobeys any order of the inspector, removing a child from the mill, factory, or manufacturing establishment; or who permits any child who has been removed by the inspector to return to work therein, or to be in, or about the mill, factory, or manufacturing establishment without the written permission of the inspector, must, on conviction, be fined not less than fifty dollars, nor more than one hundred dollars. Penalty for failure to obey orders of inspector.

20. The inspector of jails and alms houses is authorized to employ a competent clerk, with the approval of the governor, who shall be authorized to perform the same duties as by law the inspector is authorized to perform, and shall have and exercise the same powers under the direction of the inspector as the inspector has by law. The annual salary of the clerk of the inspector shall be eighteen hundred dollars payable monthly out of the State treasury as clerks in the other departments. Inspector may employ clerk with approval of governor. Salary of clerk.

This chapter  
applies only to  
certain in-  
dustries.

21. This chapter shall apply only to manufacturing establishments engaged in manufacturing, or working in cotton, wool, clothing, tobacco, printing and binding, glass, or other kind of work that is injurious to health when carried on in doors.

Inspector and  
clerk allowed  
traveling ex-  
penses.

22. The inspector and the clerk of the inspector, when traveling in the performance of their duties hereunder shall be reimbursed their actual traveling expenses when approved by the governor to be paid on the warrant of the State auditor.

Approved August 26, 1909.

No. 108)

AN ACT

(H. 312)

For the relief of T. J. Faris, county surveyor of Marion county, Alabama, by authorizing the payment of \$86.90 to him, the amount allowed by law to him as such county surveyor under section 3640 of the Code of 1896 for making the surveys and plats therein provided for, in and for section 16, township 10, R. 13 W., Marion county, Alabama, said work having been performed before the Code of 1907 became effective; to provide the manner of such payment and to repeal all laws and parts of laws in conflict with this act in so far as the payment of said \$86.90 is concerned. Be it enacted by the Legislature of Alabama:

Appropriation  
to T. J. Faris.

Sec. 1. That the sum of \$86.90 be and the same is hereby appropriated as herein provided to pay T. J. Faris, county surveyor of Marion county, Alabama, the same being the amount allowed by law to him as such county surveyor under section 3640 of the Code of 1896 for making the surveys and plats therein provided for, and for necessary help in said survey, in and for section 16, T. 10, R. 13 W., Marion county, Alabama, said work having been performed as required by law before the Code of 1907 became effective.

State auditor  
to draw war-

Section 2. That when said section 16, T. 10, R. 13 W., shall have been sold as provided by law, or enough thereof to pay this appropriation,



then it shall be the duty of the State superintendent of education to file his certificate to such amount. effect with the State auditor, who shall thereupon draw his warrant on the State treasurer for said amount of \$86.90 and payable to the said T. J. Faris for the services aforesaid, out of the money received for said land.

Section 3. That all laws and parts of laws in Repeal of conflict with the provisions of this act be and conflicting laws. the same are hereby repealed in so far as the payment of this appropriation is concerned.

Approved August 26, 1909.

No. 1211½)

AN ACT

(S. 111

An act to amend section 4335 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That section 4335 of the Code of Alabama be amended so as to read as follows: 4335. (2206) (2991) (3309) (2984) (2556) Garnishee recovers his costs on a discharge.—When the answer of the garnishee is not controverted, or, if controverted, is found for him, he shall be allowed in courts of record two dollars per day during his attendance, when such attendance is required, together with five cents per mile, computed according to the usual route traveled, going to and returning from court; and when the personal attendance of said garnishee is not required he shall be allowed two dollars for such answer; and in all other courts fifty cents per day during his attendance, when such attendance is required, together with mileage as aforesaid, and when his personal attendance is not required, he shall be allowed fifty cents for such answer; which shall be taxed and collected as other costs.

Approved August 25, 1909.

No. 125)

AN ACT

(S. 86

To provide for the disposition of money to which minors are entitled. Be it enacted by the Legislature of Alabama:

Debt owing  
minor may be  
discharged by  
payment into  
probate court.

Section 1. That whenever any minor shall in any way become the owner of any sum of money not exceeding in amount one hundred dollars or entitled to the payment thereof, if such minor have no general guardian, the person from whom said sum is due may discharge himself by payment of the same into the probate court of the county in which said minor resides.

Probate judge  
to issue re-  
ceipt for pay-  
ment.

Section 2. The probate judge shall issue a receipt to such person, showing on what account said payment is claimed to be made, and said payment shall be a pro tanto discharge of such indebtedness, and shall be evidence in any court that such sum was paid by such person but shall not be evidence that such debt is not greater than the sum so paid.

Probate judge  
may pay  
money to pa-  
rent or minor.

Section 3. In any case where said court or judge has the custody or possession of such fund not exceeding one hundred dollars, belonging to any minor who has no general guardian, and it shall be made to appear to said judge that it is to the interest of the minor that said money be paid to the mother or father of such minor, and that such parent is an honest and suitable person to disburse said fund for said minor, or if such minor is over the age of eighteen years and it appears to said judge that it is to the interest of the minor that such payment be made to him, the judge may make an order and pay same to such parent or such minor.

Approved August 25, 1909.

No. 128)

AN ACT

(S. 72

To amend article 5 of chapter 141 of the Code, relating to printing and binding of the Alabama Reports.

Be it enacted by the Legislature of Alabama, That article 5 of chapter 141 of the Code of Alabama be and the same is hereby amended by the addition of a new section in words and figures, as follows:

Reporter to  
file certificate  
when manu-  
script is de-

5998a. At the time of delivery of the manuscript by the reporter to the printer, the reporter shall file in the office of the clerk of the court and in the office of the secretary of State a cer-

tificate specifying that he has delivered to the printer the manuscripts for a given volume of such report naming it, and date of such delivery; it shall be the duty of such printer within sixty days after such delivery to deliver the number of copies of such report to the secretary of State, printed and bound as required by law, the time of which delivery shall be recorded by the secretary of State; for failure so to do, he shall forfeit ten dollars per day for each day of default, which shall be deducted from the contract price of printing and binding such report and for repeated failures to comply with this section of the Code or any other provisions of law or the contract relating to the printing and binding of such reports, it shall be the duty of the chief justice of the supreme court to declare said contract for printing and binding said reports cancelled void as to printing and binding of said reports and file said declaration in the office of the secretary of State; it shall then be the duty of the officers now designated by law to make such contracts to make a new contract for the printing and binding of such reports according to law, but such contracts may be made with non-residents notwithstanding any other provisions of law to the contrary.

livered to printer.  
Printer to deliver same within 60 days.  
Shall forfeit \$10 per day for failure to deliver.  
Repeated failure forfeits contract.  
New contract to be made.

Approved August 26, 1909.

No. 129) AN ACT (S. 52

To amend section 2868 of the Code of Alabama.

Be it enacted by the Legislature of Alabama, That section 2868 of the Code of Alabama of 1907 be amended so as to read as follows:

2868. (436) (3619) (3949) (3508) (3040) Limitation of Appeals.—Appeals under this chapter, except in such cases as a different time is prescribed, must be taken within one year from the rendition of the judgment or decree.

Approved August 26, 1909.

No. 130) AN ACT (S. 51

To amend section 2411 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That section 2411 of the Code of

License money  
to be refunded.  
where errone-  
ously paid.

Alabama be and the same is hereby amended, so as to read as follows: 2411. (4135) When license money refunded. When any person has taken out and paid for a license to carry on any business in this State, and has afterwards been prohibited by law from carrying on such business before the time named in the license has expired, such person shall be entitled to have refunded to him such proportionate part of the whole sum paid for such license as the unexpired time thereof bears to the whole time for which the license was originally granted; and any person who, through a mistake or error in the probate judge, has paid to the probate judge money that was not due from him for such license, or by such mistake has paid to the probate judge for such license an amount in excess of that required by law for the business to be carried on by such person under the license, such person shall be entitled to have refunded to him the amount in either event so erroneously collected by the probate judge, and the provisions of this section shall apply in cases where money has heretofore been so erroneously paid within two years before the approval of this act.

Approved August 25, 1909.

No. 133)

AN ACT

(S. 32

To provide for the annual reports of registers in chancery, probate judges, sheriffs and clerks of courts of record, of all fiduciary funds in their hands in their official capacity.

Fiduciary  
funds in hands  
of register in  
chancery, pro-  
bate judge,  
sheriff and  
clerk to be  
reported.

Section 1. Be it enacted by the Legislature of Alabama, That on and after the approval of this law, it shall be the duty of every register in chancery, probate judge, sheriff, clerk, and clerk and register to prepare a report in writing showing the amount of all fiduciary funds in the hands of such official, designating the name of the owner the case or the circumstances under which the same was received, which statement shall be verified.

Fiduciary  
funds defined.

Section 2. Fiduciary funds as used herein shall include any sums whatsoever which have come into the hands of such officer and of which

he is not the absolute and unqualified owner, including witness fees and other fees or funds to which any person is entitled, other than himself.

Section 3. The register in chancery and the clerk and the clerk and register shall file the same with the chancellor or judge of the court of which he is the clerk or clerk and register, at the first term of said court after the first day of January of each year. Where reports to be filed.

Section 4. The sheriff shall file at the first term held after the first day of January of each court under whose processes he holds any money the report required by this act. When report of sheriff to be filed.

Section 5. The judge of such court shall carefully examine said report and order the same recorded by the clerk of the court in a well bound book, kept for that purpose, which book shall be open to the inspection of the public. The probate judge shall file such statement in his court within the first ten days of January of each year, and record the same in a book kept for that purpose, which shall be open to the inspection of the public. Reports to be open to public. Report of probate judge, filing and record.

Section 6. It shall be the duty of judges of courts of record in this State, at the first term of their courts held after the first of January, to enforce the provisions of this act and if such report is not filed within the first day of said court to issue mandatory order requiring the filing of said report, and unless the same be filed within the time named in said order to punish officers so in default for contempt of court. Judges of courts to enforce this act. Penalty.

Section 7. If at any time it should appear to the court, or be made known to the court, that any balance has been in the hands of any officer for a period of five years and the same remains unclaimed, it may make an order directing the same to be paid into the treasury of said county, and a separate account shall be kept of all such payments and so designated as to identify each transaction. Any person entitled to any amount so paid into the treasury or any part thereof may within ten years after such payment into the treasury recover the amount to which he may be entitled, without interest, by obtaining an order from the court under whose order the same was paid into the treasury. Such order may be made by the court on summary motion. Such funds to be paid into county treasury after 5 years. May be paid out on order of court to owner.

against the probate judge of the county after five days' notice unless the court for sufficient reasons continues the hearing to a further time.

Approved August 25, 1909.

No. 141)

AN ACT

(H. 255

To amend section 4032 of the Code of Alabama of 1907.

Interrogato-  
ries may be  
filed.

Commission.

Notice.

Section 1. Be it enacted by the Legislature of Alabama, That section 4032 of the Code of 1907 be and the same is hereby amended so as to read as follows: 4032. Interrogatories may be filed; commission; notice.—The party, after making affidavit, may file with the clerk interrogatories to be propounded to the witness, of which and of the residence of the witness, and of the commissioner to be appointed, and the clerk must give the opposite party or his attorney, notice in writing, who has ten days thereafter to file cross interrogatories, to which the party filing the interrogatories may file rebutting interrogatories. After the expiration of the ten days, a commission, accompanied by a copy of the interrogatories and of the cross and rebutting interrogatories, if filed, must be issued by the clerk to take the deposition, which may be taken at such time and place as the commissioner shall appoint. On failure to give the notice herein required of the residence of the witness and the commissioner, unless the same is waived by the adverse party, the deposition of such witness must be suppressed at the cost of the party taking it.

Approved August 25, 1909.

No. 145)

AN ACT

(S. 127

For the incorporation of mutual co-operative societies or associations for farming and trucking purposes, and for the exemption of the same from all corporate taxation and licenses.

Section 1. Be it enacted by the Legislature of Alabama, That whenever ten or more farmers, truckgrowers, orchardists, or other producers of the fruits of the soil, wish to form an association or corporation, not for pecuniary profit in the sense of paying interests or dividends on stock, but for the mutual benefit through the application of co-operation, or other economic principles, they may become a body corporate in the manner following:

Section 2. Filing Declaration.—That the persons proposing to form such corporation, shall file with the probate judge of the county in which it proposes to establish itself, a declaration in writing, setting out the name of said proposed corporation, the names of the charter members, and the purposes of said corporation.

Section 3. Charter, how issued.—That upon the filing of such declaration the judge of probate shall issue to such corporation a charter, which shall be perpetual—subject to revocation at any time by the Legislature.

Section 4. Organization.—That said corporations so formed may elect such officers as it may deem necessary, in such manner and for such terms as it may provide, and remove the same at any time, and adopt such constitution and by-laws as it may see fit, not to conflict with the constitution and laws of this State.

Section 5. Powers.—That such organization shall have the power to buy, sell and lease and mortgage real estate, to build and operate warehouses, loading platforms and other means of facilitating the movement of products to buy for its members, seed, fertilizers and other needed articles for planting and marketing its products, to contract, sell or otherwise dispose of the crops growing or matured of its members, and to do all other things, incident to its purpose, for the mutual benefit of its members.

Section 6. Taxation.—That the property of corporation formed bona fide under this article, shall be, to an amount not exceeding five thousand dollars, exempt from all corporate taxation and licenses, but if used for any other than the purposes herein set forth, it shall not be so exempt.

To regulate the conduct of the retail beverage business so that it may not be made the means of evading and violating the prohibitory liquor laws of the State and to prescribe remedies and procedure for securing compliance with this act. Whereas it has appeared that various keepers of so-called soft drink stands and of other places where beverages are sold, although licensed or permitted by law to sell only those beverages that are not prohibited, have taken advantage of the opportunity afforded them by the beverage business to sell, offer for sale or otherwise dispose of prohibited liquors and beverages, and in many instances former saloon keepers conducting a beverage business have by screens, blinds and other obstructions that were used in said saloon business, so withdrawn the conduct of the beverage business from public view as to enable them to carry on the illegal traffic with greater safety; and, whereas, it is necessary to prescribe restrictions and regulations for the conduct of the retail beverage business so as to reduce the opportunity for evasion and violation of the prohibitory liquor laws of the State; now, therefore, Be it enacted by the Legislature of Alabama,

View not to be obstructed in any way, in rooms where beverage business is conducted.

1. That no booth, stall or apartment be maintained, placed or permitted to be kept or remain in a room where the retail beverage business is conducted, and that no obstruction such as screens, swinging doors, partitions, or semi-partitions be maintained, placed or permitted to be kept or remain in such room, or any other thing, that will obstruct the clear view of the interior by persons inside of said room or of persons passing along the street in front of said room.

Room to be on street floor, provided with clear glass windows.

II. That the business of selling beverages at retail to the public shall not be conducted in a room or place that is not on the street floor or grade floor, and that the room wherein said business is conducted shall be provided at the front with a clear glass window or windows or be otherwise so arranged by door or window that the



bar or table where liquors are sold and those drinking thereat or in the room, can be seen by persons from the outside passing along the street or highway in front of said room.

III. That no keeper of a place or room where beverages are sold to the public at retail shall place or maintain or allow to be kept or continued at said place, any screen, blind, shutter, curtain, partition, painted, ground, frosted, stained or opaque glass windows, or other device of obstruction that will interfere with a full view of the interior of such room and of the bar or table at which drinks are served by persons walking in front of or approaching said room or place from the front and the placing or maintaining or permitting to be kept or continued any such device or obstruction as is above referred to shall render void any license that the proprietor of the retail beverage business has obtained whether from the State, county, or town or city in which the business may be carried on, all front windows shall be of transparent glass, and if glass front doors are used such glass be transparent.

IV. That sheriffs, deputy sheriffs, constables and police officers of any town or city wherein such retail beverage business is conducted are authorized on any week days between nine o'clock in the morning and six o'clock in the afternoon or at other times when the place or room is open where such retail beverage business is conducted to enter, inspect, survey, measure or map any room or place where or wherein such retail beverage business is conducted, and any person who shall forbid, obstruct or prevent the officers named from such free entry into and inspection of such room or place, shall be guilty of a misdemeanor and on conviction may be punished by a fine of not less than fifty nor more than five hundred dollars, and may in addition be imprisoned in the county jail or sentenced to hard labor for the county for a period of not more than three months at the discretion of the judge or court trying the case; and if any such officer ascertain by inspection that the room or place wherein said retail beverage business is conducted for sale of beverages to the public is not being kept or maintained in accordance with

No place shall be kept with out full view from front, penalty for violating.

sheriff may inspect.

Misdemeanor to obstruct inspection; penalty.

Prosecution  
may be by affi-  
davit or com-  
plaint, indict-  
ment not nec-  
essary.

the requirements of any section of this act, he shall cause a criminal prosecution to be instituted against the party or parties including the owner or keeper of the place or room or any clerk, agent or servant therein aiding or abetting in the conduct of said beverage business, and prosecutions under this act may be by affidavit or complaint, and no indictment shall be necessary.

Violation  
misdemeanor.

V. That any person, firm or corporation keeping or maintaining a place or room where beverages are sold or offered for sale to the public at retail who violates any provision of this act in reference to the mode or manner in which said room or place shall be kept or maintained, shall be guilty of a misdemeanor.

May file bill  
in equity to  
require keeper  
to conform to  
provisions of  
this act.

VI. If any place or room where beverages are sold or offered for sale to the public at retail is kept or maintained in a manner contrary to the requirements of this act, then after the expiration of ten days from the passage of this act any prosecuting attorney or officer or citizen may file a bill in the name of the State in equity to require the keeper thereof to conform to the provisions of this act, and may obtain preliminary injunction and a final decree all according to the terms and regulations prescribed for cases of bills in equity filed to abate liquor nuisances, and it shall be the duty of the sheriff of the county in all incorporated towns and cities of the State as soon after the enactment of this statute as is practicable to inspect the rooms or places therein in which such retail beverage business is conducted and to notify the keeper thereof to comply with the provisions of this act, if they have not already done so, and if any proprietor of such retail beverage business shall fail for ten days to comply with the requirements of this act the sheriff shall notify the solicitor or other prosecuting attorney whose duty it is to prosecute criminal cases on behalf of the State in the county of such failure, and such solicitor or other prosecuting attorney shall thereupon file such bill in equity in the name of the State as hereinabove provided to secure a mandatory injunction compelling the proprietor of such retail beverage business to comply with the provisions of

Sheriffs to in-  
spect and no-  
tify keeper to  
comply.

On failure to  
comply sheriff  
must report to  
solicitor, who  
must file bill.

this act, or to refrain from carrying on a retail beverage business at said place so long as the requirements and restrictions of this act have not been observed, but the court for cause shown, may allow additional reasonable time for making change to conform to this act.

VII. That this act take effect from and after its approval by the governor, the public welfare requiring it. Effective.

Approved August 25, 1909.

No. 152)

AN ACT

(H. 150

To amend section 1650 of the Code of 1907.

Section 1. Be it enacted by the Legislature of Alabama, That section 1650 of the Code of 1907 be amended to read as follows: 1650. All proposals for the printing and binding for the State must be in writing, signed by the person, firm or corporation making the proposal, and must be accompanied by a bond in some guaranty company authorized to do business in the State of Alabama, to be approved by the governor, State auditor, and State treasurer, in the penalty of twenty-five hundred dollars, if the proposal is to do the printing and binding specified in Class 1, twenty-five hundred dollars if to do that specified in Class 2, five thousand dollars if to do that specified in Class 3, and twenty-five hundred dollars if to do that specified in Class 4, payable in every instance to the State of Alabama, and conditioned for the faithful performance of the contract made on the acceptance of the proposal. The proposals with the bonds must be sealed, endorsed, "Proposals for Class-- (specifying the class the proposal is for) of public printing" and delivered to the secretary of State by mail or otherwise on or before the twentieth day of the month in which the advertisement is made.

Proposals for  
printing and  
binding for  
State; bonds  
to be filed.

Section 2. This section to take effect at the expirations of the present contracts. Effective.

Approved August 26, 1909.

No. 153)

AN ACT

(H. 286)

To adopt a Code. Be it enacted by the Legislature of Alabama.

Adoption of  
Code.

Section 1. That the three printed volumes published by authority of law in 1907, known as the political, civil, and criminal codes, containing sections 1 to 7900 both inclusive together with the rules of practice of courts, be and the same are hereby adopted as the Code of Alabama.

Section 11. That all acts of the Legislature, passed at the Special sessions of the Legislature, altering, amending or repealing either the sections of the Code, or the acts of the Legislature passed at the general or special sessions are unaffected by the adoption of this Code.

Approved August 26, 1909.

No. 161)

AN ACT

(H. 289)

To confer upon the towns and cities of the State power and authority to adopt ordinances not inconsistent with the laws of the State to promote temperance and suppress the traffic in such beverages as the laws of the State prohibit to be manufactured, sold or otherwise disposed of and to prevent evasions of such ordinances, also power to forfeit licenses granted by said towns and cities if the licensee violates said ordinances, and power to provide for the destruction of contraband liquors.

Cities and  
towns allowed  
to adopt laws  
to suppress in-  
temperance;  
and provide  
for destruc-  
tion of liquors.

Section 1. Be it enacted by the Legislature of Alabama, That the governing body of towns and cities of the State shall have and may exercise full power and authority to adopt ordinances not inconsistent with the laws of the State to promote temperance and to suppress intemperance, and to suppress the traffic in such beverages as the law of the State prohibits to be manufactured, sold or otherwise disposed of, and to prevent evasion of such ordinances, also power to forfeit licenses granted by said towns and cities if the licensee violates said ordinances, and

power to provide for the destruction of liquors and beverages kept for sale in violation of law or for other illegal purposes and that may be declared to be contraband.

Section 2. That the enactment of this statute shall not be taken as a legislative declaration that such cities and towns do not now have such powers under the municipal laws of the State, nor shall this act be construed as limiting or diminishing the police powers of the towns and cities of the State under existing laws, the purpose of the statute being to confer the said powers in express terms, and to remove any question as to their existence.

Approved August 25th, 1909.

No. 162)

AN ACT

(H. 99

To amend section 1293 of the Code of Alabama.

Sec. 1. Be it enacted by the Legislature of Alabama, That section 1293 of the Code of Alabama be and the same is hereby amended so as to read as follows:

Sec. 1293. Water Closets, Privies, etc.—To regulate water closets and the construction thereof, and to compel the installation of the same and connection with the sewerage system of the city or town, and in case of a failure to install or connect, after reasonable notice, then the city or town shall install proper water closets and connect the same with the sewerage system of the city or town, at the expense of the owner, the cost thereof to be a lien upon the property in favor of the city or town, to be collected as other debts are collected or liens enforced. When closets are installed and connections made by the city or town under the provisions of this section the mayor of such city or town shall prepare a statement in writing setting forth the name of the owner and the description of the property on which such improvements have been made, together with the cost of such sanitary connection and installing of closets, which must be signed by the mayor in his official capacity and filed with the probate judge of the county in which

such property is situated for record in the mortgage records of the county. The filing of such statement shall operate as notice of the existence of such lien from the date of its filing.

Repeal of con-  
flicting laws.

Sec. 2. Be it further enacted, that all laws and parts of laws in conflict with the provisions hereof be and the same are hereby repealed.

Approved August 25, 1909.

No. 168)

AN ACT

(H. 104

To revoke the license or right to engage in or carry on any business, or to have any agency or place of business in this State, of any foreign corporation which is authorized by its charter to manufacture, sell or otherwise dispose of alcoholic, spirituous, vinous or malt liquors, or any liquor or beverage prohibited by law of Alabama to be manufactured, sold or otherwise disposed of in this State, or which is engaged in the manufacture or sale of such liquors, or any of them, in the State of its creation or elsewhere, or which is engaged in or carries on in the State of its creation, or elsewhere, any business which is unlawful for any domestic corporation or citizen of Alabama to engage in or carry on in this State; and to prohibit the entry of such foreign corporations into this State and the grant to them by any officer of the State of Alabama of a license to engage in business of any kind or to have any agency or place of business in this State, and to prescribe penalties for the violation of this act. Be it enacted by the Legislature of Alabama,

License of for-  
eign corpora-  
tion revoked  
and cancelled.

1. That the license or right of any foreign corporation now engaged in or carrying on business of any kind in this State which corporation is authorized by its charter to manufacture, sell or otherwise dispose of alcoholic, spirituous, vinous or malt liquors, or any liquor or beverage prohibited by the law of Alabama to be manufactured, sold or otherwise disposed of in this State, or which is engaged in the manufacture, or sale of such liquors, or

any of them, in the State of its creation or elsewhere, or which is engaged in or carries on in the State of its creation or elsewhere any business which is unlawful for any domestic corporation or citizen of Alabama to be engaged in or carry on in this State, be and the same is hereby revoked and cancelled; and it shall be unlawful for any foreign corporation so authorized by its charter to manufacture, sell or otherwise dispose of alcoholic, spirituous, vinous or malt liquors, or any liquor or beverage prohibited by the law of Alabama to be manufactured, sold or otherwise disposed of in this State, or in the manufacture or sale of such liquors, or any of them, in the state of its creation or otherwise, or so engaging in or carrying on in the State of its creation or elsewhere such business, to enter into this State, or to engage in or carry on business of any kind in this State; or to have any agency or place of business in this State; and no permit or license to engage in or carry on business of any kind in this State, or to establish an agency or place of business in this State, shall be issued or granted to any such foreign corporation by any officer of this State.

2. That any such foreign corporation that shall hereafter engage in or transact any business in this State, or shall have any agency or place of business in this State, shall for each offense forfeit and pay to the State the sum of one thousand dollars, and the carrying on or transacting business, or the maintaining of an agency or place of business for each separate day that it occurs shall be and constitute a separate unlawful act and for each such act said forfeiture shall accrue to the State.

3. That it shall be unlawful for any person to act as agent for, or to transact any business directly or indirectly in this State for or on behalf of any such foreign corporation, and any person so doing shall for each offense, or each act of business transacted be guilty of a misdemeanor, punishable by a fine of not less than fifty dollars, to which may be added imprisonment in the county jail or hard labor for the county, at the discretion of the court or judge trying the case, for not less than three months nor more than six months.

Forfeiture can  
be sued for  
and recovered.

4. The forfeiture provided for in this act shall be sued for and recovered in the name of the State of Alabama by the solicitor of the circuit or county in which the offense is committed; and when collected must be paid by the solicitor into the State treasury for use of the State, less twenty-five per cent. to be retained by such solicitor for his services. The attorney general shall represent the State in such actions carried to the Supreme Court, and for his services therein is entitled to one-half of the commission herein allowed to the solicitor.

Repealed.

Does not apply  
to manufac-  
ture of drugs,  
etc.

5. That all laws and parts of laws in conflict with this statute are hereby repealed. Provided: that nothing in this act shall be so construed as to prevent manufacture of drugs which conform to the pure food and drug laws of the United States, from employing agents or establishing agencies in this State.

Approved August 25, 1909.

No. 179)

AN ACT

(H. 193

To authorize boards of revenue and courts of county commissioners to make appropriations for the installation and maintenance of exhibits of the agricultural and mineral resources of their counties.

Appropriation  
to maintain  
exhibit.

Section 1. Be it enacted by the Legislature of Alabama, That any board of revenue or court of county commissioners in the State may make an appropriation in no case to exceed seven hundred and fifty dollars per year to install and maintain an exhibit of the agricultural and mineral resources of their respective counties. This act to take effect from and after its passage and approval by the governor.

Approved August 26, 1909.

No. 181.)

AN ACT

(H. 339.

To amend section 1182 of the Code of Alabama.

Loans confirm-  
ed.

Section 1. Be it enacted by the Legislature of Alabama, That sec. 1182 of the Code of Alabama be amended so as to read as follows: "1182 —Loans Confirmed.—When elections have been



held prior to the passage of this act to authorize the issue of bonds by municipal corporations, and at such elections a majority of the qualified electors, voting in such elections voted in favor of such bonds, all bonds issued or to be issued by virtue of such elections, for any municipal purposes, are hereby ratified, confirmed and validated as the lawful bonds of such municipal corporation, and may be hereafter issued and sold. And all loans of money, evidenced by notes or bonds and secured by mortgage, or either, out of any funds by any city or town prior to August 9, 1907, are ratified, confirmed and made valid as though heretofore expressly authorized by law.

Approved August 26, 1909.

No. 114)

AN ACT

(H. 358

To amend sections 2120, 2122, 2156, 2174, and 2175 and 2158 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That section 2120 of the Code of Alabama, 1907 be amended so as to read as follows: (Sec.) 2120 (3948) (486) Form and contents of assessment list; assessor to make plat-book, etc.—The taxable property and other subjects of taxation and property exempt from taxation shall be entered or caused to be entered by the assessor upon a blank assessment list in the form prescribed by the State auditor, with a full description of all property shown therein; and the assessor shall ascertain the value of each item or subject of taxation and shall enter the same in appropriate columns upon such assessment lists. And the assessor shall make out a complete plat-book of all real estate in his county unless such plat-book has already been provided, on a book to be prescribed by the State auditor, on which the name of each owner shall be entered on the separate plat assessed to or by him, where the same is practicable: for which book each court of county commissioners or board of like jurisdiction shall pay, if the price for the same shall be found by them to be reasonable, and shall also pay the assessor for making

Section 2120  
amended.

Form and con-  
tents of assess-  
ment list.

out such plat-book a sum not exceeding one hundred dollars in counties of twenty-five thousand inhabitants and upwards, and fifty dollars in counties of less than twenty-five thousand inhabitants.

Section 2122  
amended.

Condensed  
statement en-  
tered in book.

Section 2. That section 2122 of the Code of Alabama of 1907 be amended so as to read as follows: (Sec.) 2122. (3950) (487) Condensed statement of assessment and polls entered in book by assessor. The assessor must make and enter in a book, suitably ruled and substantially bound, a condensed statement of all assessments made during each tax year showing, in separate columns, the names of persons assessed in each precinct, in alphabetical order; the number of acres of land and other real estate with the description and value thereof; and the number, amount and value of all other taxable property, and subjects of taxation assessed to each person, and the property exempt from taxation; and the number, amount, and value of each separate item entered therein, together with the total amount of State taxes, and the total amount of county taxes in separate columns charged to each tax-payer, shall be extended and footed up, the footings carried forward from page to page, and the total amounts thereof footed up.

Section 2156  
amended.

Certificate on  
book after  
completion;  
warrant.

Section 3. That section 2156 of the Code of Alabama of 1907 be amended so as to read as follows: (Sec.) 2156. (3896) (520) Certificate on book of assessments after it is corrected and completed; warrant of collector. When the court of county commissioners, or other court of like jurisdiction, has completed its examination of assessments, and after the county taxes have been levied and the assessor has corrected the book of assessments in accordance with the decisions of such court, and after the assessor has extended opposite the name of each taxpayer the aggregate amount of State, county and special taxes with which such taxpayer is chargeable, and has footed up at the bottom of each page the aggregate amount of such taxes, carried his footings from page to page, and shown in conclusion, the aggregate amount of all such taxes, the presiding officer of such court shall certify on the book of assessments that the same has been

examined, corrected and allowed by the court and that the amount of State tax is \$----- the amount of the county tax is \$-----, the amount of the special tax is \$----- specifying the total amount of each of such taxes; and such certificate shall be the warrant to the tax collector of the county to proceed to collect such taxes in the manner directed by law. Page 2, (Bill to amend Code Secs. 2120, 2122, 2156, 2174, 2175, and 2158.)

Section 4. That section 2174 of the Code of Section 2174 1907 be so amended as to read as follows: (Sec.) amended. 2174 (4009) (538) Receipts of collector to tax-Receipts to payer. Upon the payment of taxes and of fees and taxpayers. costs, if any, assessed and charged against him, by any taxpayer, the collector shall give a receipt therefor from the stub-book mentioned in the next section, showing the name of the taxpayer, the date of the payment the total assessed value of real and personal property, separately, and stating the aggregate of the State, county and special taxes, collected, together with the interest, costs, and fees; and such receipt shall be prima facie evidence that such taxpayer has paid all his State and county taxes for that year on the real and personal property and other subjects of taxation contained in his assessment list, and all fees and costs mentioned in such receipt.

Section 5. That section 2175 of the Code of Section 2175 1907 be so amended as to read as follows: (Sec.) amended. 2175, (4010) (539) Stub-book of receipts kept Stub-book kept by collector, delivery and production compelled by collector, etc. by commissioners. The collector shall keep a stub-book or books of receipts for each tax-year from which all receipts given to taxpayers must be taken; and on payment by any taxpayer the collector shall enter on the stub from which the receipt is taken the name of such taxpayer, the date of payment, and the aggregate amount of taxes and the interests and costs as specified in the receipt prescribed in the preceding section, and such stub and the receipt taken therefrom shall bear the same number and correspond in all respects. Such stub-book or books at the end of the tax-year shall be delivered by the collector to the judge of probate and the production thereof by the collector may be compelled by the court

Section 2158  
amended.

Judge of probate to furnish  
abstract book  
before Oct. 1st.

of county commissioners at any time before the delivery thereof to the judge of probate.

Section 6. That section 2158 of the Code of 1907 be so amended as to read as follows: (Sec.) 2158, (3989) judge of probate to furnish abstract book to collector before October first; compensation forfeited by delay. After the book of assessments has been completed as herein provided, the judge of probate must enter in a book, in concise form the amount of taxes assessed against each taxpayer, being the aggregate of all State, county and special taxes, and the fees of the assessor with a blank for the fees of the collector, and also, separately, the assessed value of the real and personal property of each tax-payer and such book he must turn over to the tax collector on or before the first day of October on which the taxes shall become due and payable and for the services rendered by him in the preparation of such book he shall receive compensation to be allowed by the court of county commissioners as follows, viz; In counties where the aggregate assessed values of real and personal property amount to two million dollars or less, seventy-five dollars; when the assessed values amount to more than two and not exceeding four million dollars, one hundred dollars; when the assessed values amount to more than four million and not exceeding six million dollars, one hundred twenty-five dollars; when the assessed values amount to more than six and not exceeding eight million dollars, one hundred fifty dollars; and when the assessed values amount to more than eight million dollars, such compensation as may be fixed by the court of county commissioners, not less than two hundred dollars and not exceeding three hundred dollars, but any judge of probate who fails to complete such abstract by the time required shall forfeit all right to compensation.

Repealed.

Section 7. Be it further enacted that all laws and parts of laws in conflict with the provisions of this act, be, and are hereby repealed.

Approved Aug. 26, 1909.

No. 193)

AN ACT

(H. 301)

To suppress gaming and gaming places. Be it enacted by the Legislature of Alabama.

Section 1. That all places maintained or resorted to for the purpose of gaming, and all places where gaming tables or other gaming devices are kept for the purpose of permitting persons to game thereon or therewith, are hereby declared to be common nuisances and may be abated by writ of injunction issued out of a court of equity upon a bill filed in the name of the State by attorney-general or any solicitor or prosecuting attorney whose duty requires him to prosecute criminal causes in behalf of the State in the county wherein the nuisance is maintained, or by any citizen or citizens of such county, such bill to be filed in the county in which the nuisance exists; and all rules of evidence and the practice and procedure that pertain to courts of equity generally in this State may be invoked and employed in any injunction procedure hereunder, and all the rules and regulations prescribed by law for the institution and conduct of suits in equity to abate liquor nuisances may be invoked and applied in so far as the same can be adapted to or made applicable, directly or by analogy, to suits in equity under this section.

Section 2. That it shall be unlawful for any person or persons, to maintain or use any electric bells, wires or signals or any elevators or dumb waiters or other implements or appliances, connected with any gaming place or rooms used for gaming, which may be used for the purpose of communicating with the occupants of such gaming house or rooms used for gaming or with those who may be within, and any person who erects, maintains or uses such bells, wires, signals or elevators or dumb waiters or other implements or appliances or devices of like kind for said purpose shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

Section 3. That when it shall be made known to any solicitor who prosecutes criminal causes in the county by the Chief of Police, Sheriff or

Gaming places,  
etc., declared  
common nuisances.

Unlawful to  
maintain electric  
bells, etc.

Persons violating  
guilty of  
felony.

Duty of solicitor to file bill.

other officer, or by any reputable citizen, that any hotel, tavern, inn or other building has been provided with the bells, wires, signals or dumb waiters or any of them or other implements or appliances, for communicating with the occupants of a gaming place or rooms used for gaming, or that barred or locked doors have been provided which prevents the access of any officer to said rooms where said gaming is carried on, it shall be the duty of such solicitor to file a bill in a court of equity against the owner of such building or room, as well as the keeper or proprietor of such hotel, tavern, inn or other building, to obtain a mandatory injunction to compel the removal of all the things, implements or devices hereinabove mentioned and to perpetually enjoin them from permitting said hotel, tavern, inn or building to be used for the purpose of gaming, and application shall be made upon the filing of such bill to the judge or chancellor for a preliminary injunction if the Solicitor will make the affidavit to said bill, which he may do on information or belief, or if any other officer or citizen offers to make such affidavit so as to obtain an order for a preliminary injunction. Any party or parties operating or conducting said gaming room or place, or found therein, may be joined as parties defendant to the bill.

Unlawful to exhibit cards, etc.

Persons violating guilty of felony.

Section 4. That it shall be unlawful for any person or persons to exhibit or expose to view in any barred or barricaded house or room, or in any place built or constructed in such manner as to make it difficult of access or ingress to police officers or other officers, or protected, furnished or equipped with speaking tubes, dumb waiters, electric wires or bells or other apparatus for giving alarm from the outside or from the inside of such house or room when two or more persons are present any cards, dice, roulette wheel or any gambling implements whatever; any person violating the foregoing provision shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years; and all persons who visit or resort to any such barred or barricaded house or room or other place that is built or protected or equipped in

the manner described in this section and where any cards, dice, roulette wheel or any gaming implements whatever are kept or exhibited or exposed to view when said persons visit or resort to such place for the purpose of gaming, shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than three hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months; and any person who, being the owner, proprietor or keeper or superintendent of any tavern, inn, restaurant, billiard room, pool room or other public house permits or suffers any person or persons on or about the premises to provide a barred or barricaded room or rooms to which persons resort for gaming, or who knowingly or willfully permits or knowingly or willfully suffers any person or persons to equip any room or rooms on or about the premises with electric bells, wires or signals or elevators or dumb waiters or other implements or appliances connected with such room used or to be used for the purpose of communicating with an occupant or occupants of such gambling room or rooms, shall likewise be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

Section 4 $\frac{1}{2}$ . That when an affidavit is made before a justice of the peace or a judge of an inferior court having civil or criminal jurisdiction of a justice of a peace, or before the recorder of a town or city, that the complainant has probable cause to believe and does believe that any house or any part of a house particularly designating the same is being kept or maintained contrary to the provision of this statute, or that a gaming table is being exhibited or kept at said place, or that said house or part of a house or any room therein is provided with electric bells or other instruments or appliances hereinabove set forth for communicating with the occupants of such place or room, or that some other offense under this act is being committed at said house or room, then the magistrate above named to whom the application is made shall examine the complainant or affiant under oath, and other

Owner permitting any person to equip any room, etc., guilty of felony.

When affidavit is made magistrate shall examine affiant under oath.

Duty of officer  
to break into  
and enter  
house.

witnesses if he so desires, touching the matter charged in the affidavit, and if the said magistrate has probable cause for believing that the act or offense alleged in the affidavit is being committed, he shall issue his warrant directed to any lawful officer of the State of Alabama commanding him to enter the house or room and to arrest all parties found therein and to bring them before such magistrate to be dealt with according to law. It shall be the duty of the officer in executing said warrant to break into and enter such house, room or part of a house upon the refusal of the proprietor or any occupant thereof to open the same, and seize all gambling instruments and bring such instruments together with all gambling devices, and the parties that are found there, before the magistrate who issued the warrant. If it appears from the affidavit of the complainant, or of any other witness that he produces, what persons are the proprietors of or the occupants of the house, part of a house or room hereinabove described, the warrant shall order the arrest of such persons by name, but if such proprietors or occupants are unknown it may be so stated in the affidavits and warrant and upon bringing the said persons who are arrested under said warrant before the court a supplemental affidavit may be made against them by the complainant or any officer executing the warrant, charging them with the offense of felony of which they appear to be guilty under the provisions of this act, and the magistrate shall thereupon proceed to hear the evidence in the case, and if probable cause is shown for believing said parties or any of them to be guilty, he shall bind them over under proper bond to await the action of the grand jury in accordance with the laws of the State as prescribed in preliminary examinations before justices of the peace or other magistrates authorized by law to conduct preliminary examinations and all rules of procedure applicable to such preliminary examinations shall be likewise applicable to proceedings under this statute.

Presence of  
bells, etc., pri-  
ma facie evi-

Section 5. That the presence of electric bells, wires or signals or dumb waiters or of other implements or appliances that may be used for the



purpose of communicating with persons who are occupying a barred or barricaded room on or about the premises of a hotel, restaurant, billiard room, pool room or any room above the grade floor in the business district of any town or city, is prima facie evidence that gaming was being there carried on by such parties in any prosecuting against them if they have the general reputation of being gamblers, and in all such cases proof of such general reputation is admissible in evidence.

Section 6. That this act shall take effect from <sup>dence of gam-</sup>Effective. and after its approval by the governor the public welfare requiring it.

Approved August 25, 1909.

No. 194)

AN ACT

(H. 90

To amend an act entitled "an act to amend an act to establish a State Livestock Sanitary Board and the office of State Veterinarian in order to further protect livestock from contagious and infectious diseases, and to provide for eradicating and excluding such diseases from this State," approved August 6th, 1907.

Section 1. Be it enacted by the Legislature of Alabama, That an Act to establish a State Livestock Sanitary Board and the office of State Veterinarian in order to further protect livestock from contagious and infectious diseases, and to provide for eradicating and excluding such diseases from Alabama, approved March 12, 1907, shall be amended by adding section 16, to read as follows: That whenever the court of county commissioners or the board of revenue, as the case may be, in any county of this State, shall enter an order providing that the provisions of this act be put in force in the county, in which said court of county commissioners or board of revenue hold office, the said county shall be placed under the provisions of said act.

<sup>Act establish-</sup>  
<sup>ing State Live</sup>  
<sup>Stock Board</sup>  
<sup>amended.</sup>

Approved August 26, 1909.

To authorize the holding of elections by municipal corporations in the State of Alabama, for the purpose of obtaining authority to issue bonds for public purposes herein defined, and to provide for holding such elections, and declaring the result thereof, and to authorize the issue of such bonds when a majority of the voters participating in such election vote in favor of the issue of such bonds, and to regulate the issue, execution, sale and security of such bonds. Be it enacted by the Legislature of Alabama.

Governing  
body may or-  
der elections.

1. That the city council, town council, mayor and aldermen or other governing body of any city or town in this State may order elections to be held in such city, or town for the purpose of submitting to the qualified electors of such municipality a proposition or propositions to issue the bonds of such city or town for the purpose or purposes hereinafter named, whenever such city council, town council, mayor and aldermen, or other governing body deems it necessary; provided, however, that when an election has been held under this Act and the proposition submitted is defeated, no second election shall be held for the same purpose within one year from the date of the first election, unless it be to authorize an issue of bonds to rebuild public buildings or bridges or public utilities destroyed since the first election.

Municipal cor-  
porations shall  
have right to  
sell bonds;  
purposes.

2. That all municipal corporations shall have power to issue and sell bonds when such issue is authorized by the election herein provided for, for the following named purposes, to wit: (1) For the purchase of real estate necessary for any improvement authorized by law, or for the site for any building or improvement to be used for public purposes. (2) For extending, enlarging, improving, repairing or securing the more complete use of and enjoyment of any building or improvement owned, purchased or constructed by the municipality, for equipping and furnishing the same. (3) For the erection of crematories or garbage disposal plants or for the purpose of providing other means for the dis-

posal of garbage and refuse matter. (4) For the construction of streets and sidewalks, and for the repairing or improving of any street or sidewalk or other public highway; for opening, widening and extending any street or public highway. (5) For purchasing or condemning any land necessary for street or highway purposes, and for improving the same or paying any portion of the cost of such improving. (6) For erecting infirmaries, hospitals, pest houses, or for rebuilding, extending, enlarging or repairing the same. (7) For erecting prisons, work houses, police stations, houses of refuge and correction. (8) For erecting market houses and providing market places. (9) For erecting city or town halls and public offices; public school houses, and buildings to be used in connection with the same. (10) For erecting or purchasing water works to supply water to the municipal corporation, or to the inhabitants thereof, and for the purpose of repairing, extending and enlarging such water works system. (11) For erecting or purchasing lighting plants for supplying light to the municipality or to the inhabitants thereof and for the purpose of repairing, extending and enlarging the same. (12) For the purchasing or providing grounds for cemeteries or for enclosing, improving and embellishing the same; for building crematories and public burial vaults. (13) For the construction of sanitary and storm water sewers or drains, sewage disposal plants, filtration beds, and for the purpose of acquiring land or rights of way for such purposes. (14) For establishing free public libraries and reading rooms. (15) For the establishment of public baths. (16) For improving any water course or water front, for constructing docks, wharves, landings, levees and embankments within the limits of the municipality or for the purpose of protecting a city from the encroachments of streams and rivers. (17) For the payment of obligations arising from emergencies resulting from epidemics or floods or other forces of nature. (18) For purchasing or condemning the necessary land for parks, boulevards and public places; for improving or completing the same, or for acquiring additional land for parks, boule-

wards or public places. (19) For constructing or repairing viaducts, bridges and culverts, and for purchasing or condemning land necessary therefor; for the purpose of constructing bridges or tunnels over or under any railroad track, or for the abolition of grade crossings, and for the purpose of paying for damage caused to abutting property owners by the construction of any one of the improvements named in this subdivision. (20) For erecting any building necessary for a fire department, for the purchase of fire engines, fire boats, or fire equipment; for constructing water towers, reservoirs and cisterns, or for paying the cost of placing underground the wires or other signal apparatus of any fire department. (21) For the payment of any deficiencies in the revenues of any municipal corporation; for the funding of floating debts, and for such other purposes as may be authorized by law or by the charter of any municipal corporation.

Notice of election.

3. That notice of any election held under the provisions of this act shall be given for thirty days by publication in a newspaper published in the municipality in which such election is to be held, once a week for three successive weeks, which notice shall state the purpose for which the election is to be held, and the time and place of holding the same, the amount of the proposed bond issue, the rate of interest the bonds are to bear, the time for which they are to run, and the purpose for which the bonds are to be issued, and such notice shall be signed by the mayor, or other chief executive of such municipality in which such election is to be held, and if no newspaper is published therein, such notice must be posted in five public places in said municipality at least thirty days before the time of holding said election.

4. That the ballot used at such elections must be prepared by the mayor or other chief executive officer, and shall contain the words, "For\_\_\_\_bond issue," and "Against\_\_\_\_bond issue" (the character of the bonds to be shown in the blank space), and the voter shall indicate his choice by placing a cross mark before or after the one or the other.

5. That the city council, town council, mayor and aldermen, or other governing body of any municipality in which an election is held under this act, shall designate the number and location of voting places, and shall appoint three managers, and one returning officer for each voting place in such city or town to conduct said election. In appointing such managers as far as practicable, one manager at each voting place shall be known to favor the issue of the bonds, proposed, and one against such issue. The mayor shall notify the managers and returning officers of their appointment, and shall deliver the box and ballots to the managers at the several voting places in the municipality.

Number and location of voting places; managers, etc.

6. That all expenses for holding such election shall be paid out of the treasury of the municipality in which the same is held and the managers, clerks and returning officers shall be entitled to the same compensation as managers, clerks and returning officers at other municipal elections.

Expenses.

7. That the city council, town council, mayor and aldermen or other governing body of such municipality in which an election has been held under this act, shall constitute a board to canvass the returns and declare the result of such election, and such council or board shall meet at the usual place of meeting on the day after the date of holding such an election, and at that time or at a subsequent meeting to which such meeting may be adjourned, shall canvass the returns and declare the result of said election. The record of the result of the election as ascertained and declared by the board of canvassers, shall be recorded in the minutes of the proceedings of such municipality, and when so recorded shall be conclusive evidence of the matters therein stated, and the validity of such election, unless contested, as hereinafter provided. No form shall be required for such record, but it will be sufficient if the record plainly and manifestly shows the votes cast for and against the proposition submitted to the electors.

Board to canvass returns, etc.

Record of result of election.

8. That if at any election held under and according to the provisions of this act, a majority of the qualified electors voting at such election,

vote in favor of the issuance of bonds, and the result is ascertained and declared as set out in the preceding section, the city council, town council, mayor and aldermen, or other governing body, as the case may be, shall have authority to issue, and shall issue the bonds of such municipality in the amount and for the purposes mentioned in the notice of the said election.

Bonds, etc., shall be exempt from taxes.

9. That all bonds and interest coupons attached to the same issued under the authority of this act shall be exempt from State, county and municipal taxation.

Shall execute mortgage or deed of trust.

10. That any municipal corporation in this State shall have power and authority to execute a mortgage or deed of trust upon the property acquired or to be acquired with the proceeds of such bond issue, and such mortgage or deed of trust shall be admitted to record in the office of the probate judge of any county in this State without the payment of any tax upon the debts secured thereby, or any other fee or charge except the costs of recording the instrument at the rate fixed by law.

Denomination of bonds, etc.

11. That the denomination of the bonds, and time for which the same are to run, the place of payment and the rate of interest to be paid on the same shall be fixed by the governing body of the municipality issuing the bonds; provided, that no bonds issued under the provisions of this act shall run for a longer period than thirty (30) years, and no bond issued by a city with a population exceeding six thousand shall bear a greater rate of interest than five per centum per annum, payable semi-annually, but cities of less than six thousand population and towns, may issue bonds bearing six per cent. interest shall run for a longer period than ten years.

Cities of less than 6,000 population may issue bonds.

Bonds signed by chief executive; seal, coupons for interest.

12. That all bonds issued under authority of this act shall be signed by the chief executive, officer, and countersigned by the treasurer of the new municipality issuing the same, and the official seal of the municipality shall be impressed thereon. All bonds shall have attached thereto coupons for the interest which shall likewise be signed by the chief executive officer and countersigned by the treasurer of the new municipality issuing the same, but their facsimile signatures may be lithographed or engraved upon said coupons.

13. That no irregularity in the proceedings to authorize the issue of bonds under this act, nor the omission or neglect of any officer charged with the execution of any duties imposed by this act, shall affect the validity of any bonds issued under this authority, and such bonds shall have all the properties and protection of commercial paper, and such bonds and coupons shall after the maturity thereof be receivable in payment of all taxes and dues to the municipality issuing the same.

Irregularity shall not affect validity.

14. That any election held under the provisions of this Act can be contested by any qualified elector of the city or town, by executing a bond with sufficient security, to be approved by the judge of probate of the county for the payment of the costs of the contest. Notice of the contest shall be served on the mayor of the city or town in which such election was held, when the bond for costs has been approved by the judge of probate of the county; the city or town shall be made contestee, and an answer shall be filed in the name of such city or town. All provisions and incidents of the election law of this State relating to contest of an election of justice of the peace shall be observed as to the contest of an election held hereunder, but no contest of an election can be instituted after the expiration of ten days from the date of the canvass of the returns of said election.

Election can be contested; bond.

Notice of contest.

Must be within ten days.

15. That nothing contained in this act shall in any way affect the power of the municipal corporation to refund outstanding bonds, or to issue bonds to obtain money to pay for street and sidewalk improvements, or sanitary or storm water sewers, the cost of which is to be assessed in whole or in part against the property abutting said improvements, or drained by such sanitary or storm water sewers.

Approved August 26, 1909.

No. 198)

AN ACT

(H. 156

In relation to social clubs and societies for the Social or literary advancement of their members or both, chartered or organized by or under any statute or law of the State of

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Alabama; to provide for their incorporation and to regulate their continued existence; to revoke the charter of those not complying with this act; and to prescribe penalties.

Social clubs,  
etc., may be-  
come incor-  
porated.

Officers.

File declara-  
tion in office  
judge pro-  
bate.

Must contain  
statement that  
it will not en-  
gage in keep-  
ing or dispos-  
ing of liquors.

Section 1. Be it enacted By the Legislature of Alabama that social clubs and societies for the social or literary advancement their members or both, may become incorporated and entitled to all the privileges of private corporations in the following manner, and in the following manner only, and subject to the following restrictions: (a) Such persons shall first adopt a constitution and elect officers, which shall be a president, vice-president, secretary and treasurer, and such other officers, if any, as the members may prescribe, but one person may fill both of the officers of secretary and treasurer, and the club or society may provide for a governing board, or board of control, or other similar board if it desires to do so; and the officers so elected shall file in the office of the judge of probate of the county in which such club or society is located a declaration in writing stating the name, objects and purposes of the club or society, the adoption of a constitution, and the name and style and the post office addresses of its officers, also the names and number and post office addresses of its officers also the names and addresses of its members, and whether such club or society issues shares of stock or is formed for pecuniary or for non-pecuniary purposes exclusively, and if formed for pecuniary purposes and if it issues shares of stock the declaration shall state the amount of stock, the number of shares into which it is divided and by whom held. (b) The said declaration shall also exhibit therewith a copy of the constitution and of the by-laws, if any by-laws have been adopted, said constitution must set forth as an article thereof that said club, social or literary society shall have no right to engage in and that it will not engage in the business of selling, or keeping for sale or otherwise disposing of any liquors, liquids or beverages that are prohibited by the laws of Alabama to be manufactured, sold or otherwise disposed of in this State, and that the said club,



social or literary society shall not permit its members to keep or store any such prohibited liquors or beverages at or near the premises of the corporation for use by or consumption by its members or others, or for distribution or division among its members or their guests, and that the said corporation will not maintain any unlawful drinking place or any liquor nuisance contrary to the laws of Alabama, and that if it does so it is understood that its charter and rights as a corporation will be forfeited. (c) That said constitution shall also contain an article to the effect that the club, or society to be organized shall not permit any game to be played for wager, or any gambling, or the presence of any gambling device on, or about the premises, or at the club room of the corporation, and that if it does any of these things it agrees that its charter and rights as a corporation will be forfeited. The limitations herein contained shall not be construed so as to prohibit the playing of cards, dominoes, chess, pool, billiards, or other like amusements where nothing is wagered on such game. (d) Any such club, or social or literary society violating any law of the State for the promotion of temperance and the suppression of intemperance, or permitting its members or their guests to do so on or about the premises, or which violate any law of the State prohibiting the sale or other disposition of spirituous, vinous or malt liquors, or other liquors or beverages prohibited by law to be sold, given away or otherwise disposed of or shall keep or maintain any unlawful drinking place or liquor nuisance contrary to the laws of Alabama shall thereby forfeit its charter and cease to be a body corporate, but any forfeiture under this act may be declared by suit against the corporation in "Quo Warranto" before a Court of competent jurisdiction if any person or officer wishes to bring such suit under the code of Alabama regulating procedure in "Quo Warranto" cases. (e) No probate judge shall receive a declaration for the incorporation of such a club or society, or shall issue any charter or certificate of incorporation to any such club or society unless the declaration complies with this statute and the constitution contains

Charters will be forfeited.

Shall not permit gaming for wager.

Does not prohibit playing of cards, etc., without wager.

Forfeiture of charter may be declared by suit.

Probate judge shall not issue certificates unless declaration complies with this statute.

Declaration shall be recorded in office probate judge; fees.

the articles herein required to be incorporated in such constitution. (f) If any member or officer of such club, social or literary society aids or abets in keeping on, at or about the premises any unlawful drinking place, or liquor nuisance, as defined by the laws of Alabama, he shall be guilty of a misdemeanor and shall be punished as the law prescribes for the punishment of those who keep or maintain such unlawful drinking places or liquor nuisances. (g) The declaration to be filed with the probate judge for the organization of the club or society shall be signed by the officers, acknowledged or approved in the case of deeds, and recorded in the office of such probate judge; and the judge of probate for such recording and other services in and about the organization of such corporations under this act shall be entitled to the same compensation he receives for similar services under existing laws and he may charge the usual recording fees for recording the declaration, constitution and the by-laws.

Existing clubs, etc., shall forfeit charters if in violation of this act.

Section 2. That all existing clubs, social and literary societies chartered or organized by or under any statute or law of the state shall if they continue their existence be subject to the restrictions and inhabitions of this act, and shall forfeit their charters for such acts and things as are made a ground of forfeiture in any subdivision of the preceding section, and their officers and members shall be subject to the same penalty for the same acts and things as is prescribed in sub-section ("f") of the first section; and this act to the extent herein indicated, shall be treated as and shall constitute an amendment of the charter of all such existing social clubs, and social or literary societies.

Club, etc., desiring to continue shall file statement.

Section 3. That every such social club, or social or literary society charter by or under any statute or law of Alabama desiring to continue its existence as a corporation shall within sixty days after the passage of this statute cause to file with the Probate judge of the county wherein it is located a statement under oath made by one of its officers giving the names and addresses of all its members, showing whether it maintains a club room or other place where the members

resort and its location; and the charter of every such club or society that fails within sixty days to file such statement with the probate judge shall at the expiration of said period stand revoked and have no further validity. The probate judge shall be entitled to charge the usual fees for filing and recording said statement.

Charter of clubs, etc. failing to file statement within 60 days revoked.

Section 4. The property of corporations formed bona fide under this act, for other than pecuniary purposes, shall be, to an amount not exceeding two thousand dollars, exempt from all state, county and municipal taxation and license; but if used for any other purpose than legitimately pertains to the objects of such society, it shall not be so exempt.

Property exempt from taxation.

When not exempt.

Section 5. That section 3621 of said code is hereby repealed and all laws and parts of laws in conflict with this statute are repealed; and this act shall go into effect from and after its approval by the governor, the public welfare requiring it.

Section 3621 repealed.

Effective.

Approved August 25, 1909.

No. 200)

AN ACT

(H. 246

To amend an act entitled "an act to provide for the organization, incorporation, government and regulation of cities and towns and to define the rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof, and to prescribe penalties for violations of the provisions of this act" by amending the title and sections 23, 36, 38, 53, 63, 81, 120, 126, 78 thereof and adding sections 94 1-2, 107 1-2, 137 1-2, 139 1-2, 76 1-2.

1. Be it enacted by the Legislature of Alabama, That the title of an act, entitled "An act to provide for the organization, incorporation, government and regulation of cities and towns and to define the rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof, and to prescribe penalties for violations of the provisions of this act," be amended so as to read as follows: "An act to

Title of act amended.

Sections  
amended.

In cities of  
6,000 or more,  
mayor shall  
not sit with  
council.

Less than 6,000  
mayor shall  
preside.

Vacancies.

Section 23  
amended may  
extend cor-  
porate limits.

provide for the organization, incorporation, government and regulation of cities and towns and to define the rights, powers, duties, jurisdiction and authority of such cities and towns, and of the officers thereof, and of state and county officers in relation to such cities and towns and to prescribe penalties for the violation of the provisions of this act."

2. And that sections 18, 23, 36, 38, 53, 63, 81, 120 and 126, be amended so as to read as follows: Section 18. In all cities and towns, at the general election to be held on the third Monday in September, 1908 and bi-ennially thereafter, there shall be elected a mayor, who, in cities having a population of six thousand or more, shall not sit with the council nor have a vote in its proceedings, and he shall have the power and duties herein conferred. In cities having a population of less than six thousand, and in towns, the legislative functions shall be exercised by the mayor and five aldermen, the mayor shall vote with and preside over the deliberations of the council, and the aldermen in such municipalities shall be elected by the city or town at large at the first general election, on the third Monday in September, 1908, and biennially thereafter, they shall be elected by the city or town at large, or from wards, as the said councils may determine not less than six months before an election. Vacancies not otherwise provided for shall be filled by the council. Section 23 any town or city may, from time to time, extend its corporate limits in the manner set forth herein, but the provision of this act shall not preclude any city from extending its corporate limits in any other way or manner that may be authorized by law. Whenever the council shall pass a resolution to the effect that the public health or public good requires that certain territory, describing it, shall be brought within the limits of the city or town: (1) It shall be the duty of the mayor, to certify a copy of such resolution to the judge of probate of the county in which the land is situated proposed to be annexed and said certified resolution shall have attached thereto a plat or map of the said territory, which certi-

fled resolution and plat or map shall be filed by the judge of probate. (2) Within ten days from the date of the filing of such resolution, the judge of probate must make and enter an order upon the minutes of said court, directing and ordering an election to be held by the qualified electors residing within the territory described, not less than twenty days nor more than forty days from the date of making of the order. The said judge shall give notice of the holding of such election by publication in a newspaper published within the city or town whose limits are proposed to be extended, if a newspaper is published therein, and if no newspaper is published in said municipality, then by posting notices at three public places in such municipality, which notice shall state the day on which such election is to be held, the voting place or places, the boundaries within which voters must reside to vote at the respective voting places, which must be within the territory proposed to be brought into the city, or town, and such notice must give a description of the territory proposed to be annexed, and must state that a map of such territory is on file in the office of the judge of probate of said county, open to the inspection of the public. (3) The judge of probate may designate as many places within the territory proposed to be annexed as he may deem necessary for the convenience of the voters and must designate the boundaries within which the voters must reside at the respective voting places, and shall appoint three inspectors election, and one returning officer, for each voting place, which inspectors shall manage the election at the respective voting places at which they are appointed as inspectors. (4) Each qualified elector who has resided within the boundaries of the territory proposed to be brought into the city or town for three months next proceeding the election, may vote at such election but must vote at the voting place designated by the judge of probate for voters in the territory in which he resides. (5) The election to determine whether or not the proposed territory shall be brought within such corporate limits, must be conducted in all respects as provided by the general election laws, and under the same

notice of election.

Ballots.

Inspectors  
must certify  
results of elec-  
tions.

result may be  
contested.

sanction and penalties except as changed by the provisions hereof, and except that an official ballot need not be provided. (6) Each voter may furnish his own ballot with the following words written or printed thereon, "For annexation," if he desires to vote in favor of annexing the territory to the city, or "Against Annexation," if he desires to vote against annexing the territory to the city or town. It shall not be necessary for the ballots to be of any particular size, form or color. (7) The inspectors at the respective voting places, must, as soon as the polls are closed, ascertain and certify the results of the elections, at their respective voting places, to the judge of probate, and deliver the same to the returning officer, who must, at once, return the same to the judge of probate, and the judge of probate must canvass the returns as made by the inspectors, and if it appears that a majority of the votes cast at the election were "For Annexation," the judge shall make and enter an order on the records of the probate court adjudging and decreeing the corporate limits of the city or town to be extended, so as to embrace the territory described in the resolution and designated on the plat or map attached to the resolution, and must cause the certified resolution and the map and all orders or decrees or judgments to be recorded in the records in his office and from the time of the entry of such order such territory shall be a part of and within the corporate limits of the city or town. If it appears that a majority of the votes cast at the election are "Against Annexation," the judge of probate shall make and enter an order on the records of the court adjudging and decreeing that a majority of the votes at such election were cast against coming into the corporate limits of the city or town, and that the territory described and designated in the resolution and plat or map attached shall not form a part or be embraced in the city or town until it may thereafter be brought into the city or town as a part thereof. (8) The result of such election may be contested by any qualified elector voting at the election, under the same provisions as are provided by a general law for contesting election of justices of the peace, mak-

ing the city or town the contestee. The city or town at whose instance the election is held shall pay all costs and expense incident to the election. City or town shall pay costs of election.

(9) The plat or map filed with the certified copy of the resolution, as required herein, shall show the boundaries of the territory proposed to be taken into the city or town, which territory must be contiguous to the boundary of the city or town, at some point, and such territory may extend to or around the boundary line of any other city or town, but is not to embrace any territory within the corporate limits of another municipality. All territory brought within the corporate limits of a city or town, under the provisions of this act, shall be subject to its laws and ordinances and the council shall have and exercise the same jurisdiction over such territory as is exercised over the other territory within the corporate limits of the city or town. The council may create new wards or may enlarge the wards, so as to embrace all the territory brought within the corporate limits of the city, or town, so as to afford opportunity to all persons entitled to vote at elections in the city or town, to vote there at, The probate judge shall be entitled to the same fees for his services performed under the provisions hereof, as he is authorized by law to charge and collect for similar services rendered by him, and all other officers shall entitled to the same compensation for services rendered by them as they are authorized by law to charge and collect for similar services rendered by them, and the city at whose instance the service is performed under the provisions hereof, shall pay all costs and expense thereof, except in the case of a contest as herein provided. Any city or town having extended its corporate limits under the provisions of this act, or any other act, or law may again extend its corporate limits hereunder or under any other act or law authorizing an extension of corporate limits by cities or towns. In every proceeding to extend the corporate limits of any city or town under the provisions hereof, the council of such city or town shall declare in each and every resolution herein provided for, and the probate judge shall declare in each and every order directing and ordering Plat filed, shall show boundaries.

shall pay all costs and expense thereof, except in the case of a contest as herein provided. Any city or town having extended its corporate limits under the provisions of this act, or any other act, or law may again extend its corporate limits hereunder or under any other act or law authorizing an extension of corporate limits by cities or towns. In every proceeding to extend the corporate limits of any city or town under the provisions hereof, the council of such city or town shall declare in each and every resolution herein provided for, and the probate judge shall declare in each and every order directing and ordering

Fees of probate judge.

Council may  
remove offi-  
cers.

Trial.

an election to be held hereunder, and in every notice given hereunder, and in every order made and entered on the record of the probate court hereunder, that such resolution, order or notice, as the case may be, is passed, given or entered under the provisions of this Act. After an election has been held in any territory under the provisions of this, or any other act or law, no other or subsequent election shall be ordered or held for the same territory or any part thereof, within twelve months next after said election. Section 36. The council may, of its own motion, impeach or remove any of the officers named in the preceding section, including the president of the council for corruption in office, habitual drunkenness, incompetency, official misconduct, or any offense involving moral turpitude or for habitual neglect of duty, by a vote of two-thirds of all the members elected to the council, except the mayor, as to whom a three-fourths vote shall be requisite, the vote in all cases being taken by yeas and nays, and spread upon the minutes, five days notice and an opportunity of being heard in his own defense having been previously given the accused, with a copy of the charges against him. Upon the preferring of impeachment charges against any member of the council or the mayor, the accused shall be placed on trial, which trial shall begin within thirty days from the notification of said charges as to the party impeached. Judgment in cases of impeachment shall not extend further than removal from office and disqualification from holding any office under the city during the term for which such officer was elected, but the party convicted shall be liable to indictment, trial and imprisonment in the State courts, notwithstanding, if it be an offense punishable by the laws of the State. Upon the trial of any impeachments the accused shall have the right to appear in person, or by counsel, and to testify in his own behalf, and the municipality shall be represented in such cases by any person that may, by the council be authorized. Proceedings shall be commenced by the council also upon written charges being filed by any inhabitant of the city or town, upon giving security for the payment of all costs incur-



red by such impeachment proceedings in the event of failure to substantiate charges. Section 38. The mayor shall have powers and perform duties as follows: He shall keep an office in the city or town and shall receive such salary as the council may prescribe, not exceeding the following amounts; in cities having more than twenty-five thousand population not exceeding five thousand dollars (\$5000.00) and not less than two thousand five hundred dollars (\$2,500.00) a year, in cities having six thousand and up to twenty-five thousand population not exceeding twenty-five hundred dollars (\$2,500.00) nor less than five hundred dollars (\$500.00) a year, in cities having less than six thousand population not exceeding one thousand dollars (\$1,000.00) nor less than one hundred dollars (\$100.00) a year, in towns, not exceeding six hundred dollars (\$600.00) nor less than fifty dollars (\$50.00) a year. Section 53. The treasurer shall give bond in such sum as the council may prescribe for the faithful performance of his duties and the safe custody of the funds. He shall be the custodian of the funds of the municipality, keeping an accurate record of the funds of the several departments, and shall keep books showing accurately the financial condition of the city. He shall pay out money only upon warrants drawn by the officers authorized herein to draw warrants upon the treasurer and when paid shall keep safely the warrants so drawn. Such warrants shall be drawn by the clerk, approved by the mayor, except as herein otherwise provided, on the treasurer, the warrant showing to what department the same is to be charged. In cities of six thousand or more, such warrants shall be drawn by the clerk on the treasurer, the warrants showing to what department the same is to be charged, provided, however, that the council may authorize the clerk to draw such warrants on the treasurer without the approval of the mayor, except, that in all instances, the approval of the mayor shall have first been inscribed upon the voucher, for the payment of which such warrant is drawn. No warrant, however, to be drawn except by authority of law or ordinance. No expenditure shall be allowed unless

Powers and  
duties of  
mayor.

Treasurer  
shall give  
bond.

the same shall have been authorized by ordinance, or by the mayor, and is carefully itemized and shall have been examined, audited and approved. He shall keep a record of all warrants presented for payment, which, are unpaid for want of funds, and shall pay them when funds are available in the order of their presentation. He shall make report once a month, or oftener if required by the council, of the financial condition of the account of each department authorized to draw on the treasurer, and shall make a quarterly statement, under oath, of the financial condition of the city or town to the council. If no interest is stipulated to be paid on warrants drawn upon the treasurer and not paid for want of funds, then the legal rate shall be allowed from the time of presentation, which time shall be endorsed by the treasurer on the warrant with his signature, but no interest shall be paid on such warrants after notice has been posted in the office of the treasurer, or in the office of the mayor, that such warrant will be paid on demand. The treasurer shall sign all bonds issued as a liability of the city or town. He shall perform such other duties as may be required of him by the council or by law. Section 63. In any case involving the validity of an ordinance of the city, tried before the recorder, the council may take an appeal, without bond, to the circuit court or court of like jurisdiction, and in any case, the defendant may take an appeal to such court by giving bond with good and sufficient sureties payable to the city, to be approved by the recorder or officer trying the case, conditioned to be void if the defendant appears from term to term of said court, until discharged by law, to answer said charge, but unless such bond be given within five days from the date of the judgment, no appeal shall be allowed from such judgment. An appeal bond for more than three hundred dollars shall in no case be required, but when sitting as a committing magistrate any reasonable bond may be required. The case appealed shall be tried *de novo* in such court and the judge or jury trying such cause is authorized to impose upon such person convicted such punishment by fine or imprisonment in the city jail, or other

Council may  
take appeal.

Appeal bond.

place of confinement, or hard labor for the city, or by fine and imprisonment as the court or jury may deem proper, and is authorized by law or ordinance for such offense. Provided, that in no event, shall the city or town be liable for the cost of such appeal. Section 78. No councilman shall be entitled to vote on any question in which he, or his employer, or employee, has a special financial interest at the time of his voting, or was so interested at the time of his election. For violating this section or subdivision twelve of section 76, he may be removed. Section 81. The style of the ordinance of city or town shall be "Be it ordained by the city (or town) council of ----- as follows: "inserting the name of such city or town, as the case may be, and no ordinance or resolution intended to be of permanent operation shall be adopted by the council at the same meeting at which it is introduced, unless unanimous consent of those present is given for the immediate consideration of such ordinance or resolution, such consent to be shown by a vote taken by yeas and nays, and the names of the members voting to be entered upon the minutes, and no ordinance or resolution intended to be of permanent operation shall become a law unless on its final passage a majority of the members elected to said council in cities of over six thousand inhabitants, or the mayor and three aldermen or four aldermen in cities of less than six thousand inhabitants in towns, shall vote in its favor. The council shall award no contract on bids except by resolution or ordinance as of permanent operation. No ordinance shall be amended after its passage by providing that designated words be stricken out or that designated words be inserted, or that designated words be stricken out and other words inserted in lieu thereof, but the ordinance or section or subdivision thereof amended shall be set forth in full as amended. The council may provide, at any time it may deem proper for the revision and codification of its ordinances, or for the adoption of a code by ordinance. Section 120. After the adoption of this act, courts of the county commissioners and boards of revenue of the county where there is levied a special road and bridge tax, or

When councilman not entitled to vote.

Style of ordinance.

County commissioners shall pay over one-half money

collected for  
road, etc.

Used for main-  
taining streets  
and bridges.

Parties may  
protest  
against im-  
provement.

either, shall pay over, each year, to each municipality therein one-half of the money collected on such road and bridge tax or either, on the property located in such municipality, such sums when paid over to the municipality, shall be used exclusively for the purpose of maintaining the streets and bridges in the corporate limits of such municipality. Any money derived from a levy of a special bridge tax not expended by the municipality in maintaining the bridges within its corporate limits, in any year, shall be returned to the board of revenue or court of county commissioners and credited to the county bridge fund for the purpose of maintaining bridges of the county outside the corporate limits of such municipality. Section 126. At said meeting, or at a place and time to which the same may be adjourned, all persons whose property may be affected by the proposed improvement may appear in person or by attorney, or by petition and object or protest against said improvement, the material to be used and the manner of making the same, and the said council shall consider such objections and protests, if any, and may confirm, amend, modify or rescind the original ordinance or resolution, but if objection to the proposed improvement be made by a majority in frontage of the property owners to be affected thereby, when the proposed improvement is to be assessed against the property fronting or abutting any street, avenue or alley, or by a majority, in area of the property owners, when the proposed improvement is to be assessed against the property comprising a sewerage, drainage, or improvement district, the improvement shall not take place unless ordered by a two-thirds vote of those elected to the council. The council shall have authority to pay out of the general fund of the city or town, or any special fund that may be provided for that purpose, such portion of the cost of the proposed improvement as they see proper, the cost of any improvement contemplated by this act shall include the expense of the preliminary and other surveys and the inspection and superintendence of such work, printing and publishing the notices, resolutions and ordinances required, including notice of assessment, the cost

of construction, preparing bonds, interest on bonds, when the bonds have been issued in anticipation of the collection of the assessment, and any other expense necessary for the completion of such improvement. The council may require advertisements for different character of pavements and the final selection by the council of pavement or the kind or character thereof shall, in that event be postponed until the bids shall have been received. Section 76 $\frac{1}{2}$ . Any person violating the provisions of section 76 of said Act shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than Fifty Dollars and not more than One Thousand Dollars and may also be sentenced to hard labor for not more than six months.

III. And to amend by adding Section 94 1-2, 107 1-2, 137 1-2 and ----, as follows: Sec. 94 1-2.

Cities and towns are hereby authorized to cause their streets, alleys and other public places to be sprinkled, and swept, one or both, and for that purpose may acquire all such outfits and apparatus as may be necessary. The council or board

Streets, etc.,  
to be sprink-  
led, etc.

of public works or other governing body, as the case may be, shall determine from time to time what streets, alleys and public places shall be sprinkled and swept, or either, and whether the same shall be done by city or let out by contract.

Whenever any street or alley or other public place shall be ordered to be sprinkled or swept the council or board or other governing body shall cause necessary specifications for such work to be made and filed in the office of the city clerk, and shall publish the resolution or ordinance ordering the work to be done, hear remonstrances, modify, confirm or rescind its original resolution or ordinance, and if the work is to be done by contract, may advertise for bids and let the work by contract. It shall not be necessary to hear remonstrances when such work is to be done at the expense of the city. The cost of such

Specifications  
filed in office  
of city clerk.

sprinkling or sweeping, or either as the case may be, shall be assessed pro rata, according to frontage, against the lots, tracts and parcels of land along the line of such street, alley or other public place, as the cost of street improvements is assessed and such assessments shall be liens upon

Cost assessed  
against lots,  
etc.

May add 10  
per cent to as-  
sessments,  
etc.

the property against which the assessments are respectively made as of date of letting the contract, if the work is done by contract, or as date of final approval of the resolution or ordinance, ordering the work, if the work is done by the city. In addition to the cost of such sprinkling and sweeping the city may add thereto, each year, and include in the total assessment above provided for, an amount equal to ten (10%) per cent. of the cost to the city of the outfits for such work and for which it may not previously have been reimbursed. The cost of sprinkling and sweeping, or either, shall in all cases be paid by the city out of the funds of the city treasury, Provided, however, that the amount assessed for such sprinkling and sweeping against any one lot, parcel or tract of land shall in no case exceed one cent (1c) a month for each front feet of such property along the line of streets, alley or other public place so sprinkled or watered or swept, and provided further, that the city or town may do such sprinkling and sweeping, or either, at its own expense. In case the cost of sprinkling or sweeping, or either, shall be paid by assessments, the duties of the clerk, treasurer and other officers of the city, the rights of the city, the liability of such city in relation to such assessments, the rights of contractors and also the right of foreclosure and enforcement of liens by suit or otherwise, and the recovery of interest, costs and fees, so far as applicable, shall be the same as provided for in this code in case of assessments for street improvements, except as otherwise herein provided, but the provisions of this code in relation to the payment of street improvement assessments by installments, and the issuance of bonds to anticipate same shall have no application to assessments for street sprinkling or sweeping. Assessments for street sprinkling or sweeping shall be paid and collected by the same city official to whom street improvement assessments are to be paid under the provisions of this code, who shall be allowed the same commissions for collecting the same as is allowed him under this code for collecting street improvement assessments. All assessments for street sprinkling and sweeping, or either, for any one year, or

Assessments,

part of a year, shall become due and payable on the last day of December of such year, and must be paid before the first day of February next following. All assessments shall bear interest from the date they are due to the date of their payment. Sec. 107½. In cities of over thirty thousand inhabitants, if the council shall assess taxes upon property liable under the constitution and laws of this state, for city taxes, and furnish to the board of revenue or court of county commissioners, or board of like jurisdiction, an assessment roll showing property and assessed value thereof prior to July 1st of each year, then the court of county commissioners, or board of revenue or court of like jurisdiction are required to take such assessments and may adopt the same. Provided, however, in the event that the values of any property are higher than those made by the county assessor, the property owners shall be notified of the valuations placed, and shall have the right to appear and contest the same, and appear from the judgment as provided by law. "This section, however, shall not affect the right of the tax commission of the State to raise or lower or fix valuations as now provided by law. Sec. 137½. The council may provide by ordinance definite times when bonds of each series may be redeemed and may provide that bonds will not be redeemed until the maturity of the last assessment, in which event they shall establish a sinking fund for the purpose of paying such bonds at maturity. The funds in the sinking fund shall either be deposited in bank on special deposit, drawing interest, or may be invested by authority of the council by ordinance in like improvement bonds of said city. The council shall have the right to provide, by ordinance, for the registration of all improvement bonds, and for changing registered bonds to coupon bonds and *vice versa*, by ordinance upon the surrender of the bond. Section 139½. When any two or more cities or towns are consolidated by special act or under the general law, all assessment bonds upon property for improvements or obligations issued by such cities or towns shall be the primary obligation of the municipality which continues its existence;

when due and payable.

If council shall assess taxes board of revenue are required to take such assessments.

Property owners have right to contest.

As to bonds, when redeemed, etc.

Where cities or towns are consolidated.

which municipality shall be empowered to make all assessments and do any and all acts necessary to complete the improvements on contracts made by the municipality absorbed and shall issue its bonds for said improvements when completed, as was authorized by municipality absorbed, and such city shall assume and be subject to all liabilities and rights of action of such absorbed city.

Approved Aug. 25, 1909.

No. 201)

AN ACT

(H. 67

To amend sections 1, 5, 8 and 30 of an act entitled "An act to regulate railroads and other common carriers; to secure reasonable rates and adequate service, and to prevent unjust discrimination in their public service, and prescribe penalties for the violation thereof," approved Feb. 23rd, 1907.

Section 1  
amended.

Sec. 1. Be it enacted by the Legislature of Alabama, That section 1 of an act entitled "An act to regulate railroads and other common carriers in this State; to secure reasonable rates and adequate service and to prevent unjust discrimination in their public service, and to prescribe penalties for the violation thereof," approved Feb. 23rd, 1907, be and the same is hereby amended so as to read as follows: Sec. 1. Be it enacted by the Legislature of Alabama, That all railroads heretofore constructed or which may hereafter be constructed in this State are hereby declared public highways, and all railroad companies, or other companies, corporations, firms or individuals engaged in the transportation of persons, or freight over railroads for hire, and all navigation companies or steamboat or steam packet companies or corporations, firms or individuals engaged in the transportation of persons or freight by water, for hire, are hereby declared common carriers, and are hereby made subject to the provisions of this act.

Section 5  
amended.

Section 2. That section 5 of said act be, and the same is hereby, amended so as to read as follows: Sec. 5. It shall be unlawful for any rail-



road, or other common carrier subject to the provisions of this act, to charge, demand, collect or receive a greater or less compensation for the transportation of passengers or property, or for any service in connection therewith, than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, except as provided by law or the railroad commission, and the rates, fares and charges named herein shall be the lawful rates, fares and charges when approved by the railroad commission, but the commission may prescribe such changes in the form in which the schedules shall be issued by the common carrier as may be found expedient.

Section 3. That section 8 of said act, be, and Section 8 amended.  
the same is hereby amended so as to read as follows:

Sec. 8. If any railroad or other common carrier subject to the provisions of the act, or any agent or officer thereof, shall directly, or indirectly, or by special rate, rebate, drawback, or by means of false billing, false classification, false weighing, false report of weights, or by any device whatsoever, charge, demand, collect or receive from any person, firm, company or corporation a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property, or for any service in connection therewith, than that prescribed in the published tariffs, or than it charges, demands, collects or receives from any other person, firm, company or corporation for a like service, such railroad or other common carrier so doing shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared unlawful, and shall forfeit to the State of Alabama and pay into the State treasury not less than one hundred dollars nor more than ten thousand dollars for each offense.

Section 4. That section 30 of said act be, and Section 30 amended.  
the same is hereby, amended so as to read as follows:

Sec. 30. Nothing in this act shall be construed to prevent the carrying, storage, or handling by any common carrier subject to the provisions of this act of property free or at reduced rates for the United States, or for the State of Alabama, or for any municipality, or for charita-

ble purposes, or to and from fairs and exhibitions, for exhibition thereat, or property shipped by or to its officers or employes for their own exclusive use or consumption or that of their immediate families; or prevent such common carriers from issuing excursion, mileage or commutation tickets, provided such excursion, mileage or commutation tickets shall be obtainable by all persons applying therefor under like circumstances and conditions. Nor shall anything in this act be construed to prevent such common carriers from giving free transportation or reduced rates therefor to any person authorized by law to receive such free transportation or reduced rates therefor. And it shall be lawful for any railroad company to give to or exchange passes or free transportation with the officers and employes of other railroads and of express companies and the immediate members of their families and for any express company to carry free or at reduced rates the personal packages or property of its officers and employes and the officers and employes of railroad companies, for their own exclusive use or consumption or that of their immediate families. Upon the shipment of live stock or other property, requiring the care of an attendant, the common carrier may furnish free transportation including return passage, to the shipper or to some person or persons designated by him as attendant.

Approved August 26, 1909.

No. 205)

AN ACT

(H. 223

To amend section 7851 of the Code of Alabama.

Section 7851  
amended.

Change of  
venue, etc.

Section 1. Be it enacted by the Legislature of Alabama, That section 7851 of the Code of Alabama be and the same is hereby amended so as to read as follows: 7851 (5309) (4485) (4911) (4206) (654) Change of venue: Trial removed on defendant's application, etc.—Any person charged with an indictable offense may have his trial removed to another county, on making application to the court, setting forth specifically the reasons why he cannot have a fair and im-

partial trial in the county in which the indictment is found; which application must be sworn to by him, and must be made as early as practicable before the trial, or may be made after conviction, on new trial being granted. The refusal of such application may, after final judgment, be reviewed and revised on appeal, and the supreme court shall reverse and remand or render such judgment on said application, as it may deem right, without any presumption in favor of the judgment of ruling of the lower court on said application. If the defendant is in confinement, the application may be heard and determined without the personal presence of the defendant in court.

Approved August 26, 1909.

No. 206)

AN ACT

(H. 68

To regulate the disposition and disbursement of witness fees collected by clerks of courts of record and which fees have not been paid out to the parties entitled thereto within two years after collected by the clerk. Be it enacted by the Legislature of Alabama:

1. That on the first day of January, in each year, all clerks of courts of record within this State shall file with the State treasurer a full and complete report of all witness fees collected by them or received by them from their predecessors in office which have not been disbursed to the persons legally entitled thereto, and shall pay into the State treasury all such witness fees which have been collected by them or their predecessors more than two years preceding the making of said report. Said report shall show the amount and date of the collection, the name of the witness for whom collected, and the court, style of the cause, and date of its final termination, in which said fee was collected. Report of witness fees collected.

2. That all persons entitled to such witness fees shall present their claims for payment to the State treasurer within six years from the date of its collection by the clerk, by presenting the witness certificate or by filing an affidavit Persons entitled to such fees shall present claims to State treasurer.

Barred after 6  
years.

showing its loss and his right and title to the same, and said treasurer, upon such presentation, shall pay out of said funds to the person presenting said claim the amount shown to be due him by the report filed with him by the clerk. All claims for witness fees, reported by the clerk and paid over to the State treasurer, shall be forever barred after six years, from the time such fees are collected and subject to disbursement, and on the first day of January of each year the treasurer shall transfer from said fund and place in the general fund of the State all such fees in his hands which are shown by the clerk's report to have been collected and subject to disbursement for six years.

3. That all clerks of courts of record within this State upon the expiration of their several terms of office, shall pay over to their several successors in office all witness fees in their hands and which have been collected by them and which have not been paid into the State treasury under this act, and shall furnish such successor a full and complete statement showing the names of all witnesses for whom said fees were collected, the date of the collection, the amount due each of the witnesses, the court, the style of the cause, and the date of the final termination of the same, in which such fees were collected; that after such payment to their several successors in office, or to the State treasurer as the case may be, they shall be discharged from further liability in regard to all fees so paid over, either to their successors, or to the State treasurer.

Approved August 26, 1909.

No. 207)

AN ACT

(S. 87

To regulate the sale, giving away, or other disposition of drugs, medicines, or poisons in this State, and to provide for the creation of a board of pharmacy for service in connection with such sale, giving away, or other disposition. Be it enacted by the Legislature of Alabama,

Section 1. That from and after the passage of this act, it shall be unlawful for any person not licensed as a pharmacist within the meaning of this act, to conduct or manage any pharmacy, drug store, apothecary shop, or other place of business for the retailing, compounding or dispensing of any drugs, medicines, or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale or retail any drugs, medicines, or poisons except as hereinafter provided, or for any person not licensed as a pharmacist or assistant pharmacist, within the meaning of this act, to compound, dispense, or sell at retail any drug, poison, or medicinal preparation upon the prescription of a physician or otherwise, or to compound physicians' prescriptions, except as an aid to or under the supervision of a person licensed as a pharmacist under this act, and it shall be unlawful for any owner or manager of a pharmacy or drug store, or other place of business, to cause or permit any other than a person licensed as a pharmacist or assistant pharmacist, to compound, dispense, or sell at retail any drug, medicine, or poison, except as an aid to or under the supervision of a person licensed as a pharmacist or assistant pharmacist. Provided, however, that nothing in this section shall be construed to interfere with any legally licensed practitioner of medicine, veterinary surgery, or dentistry, in the compounding or dispensing of his own prescriptions, nor with the exclusively wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is licensed as a pharmacist; nor with the sale of poisonous substances which are sold exclusively for use in the arts, or for use as insecticides, when such substances are sold in unbroken packages, bearing a label having plainly printed upon it the name of the contents, the word "poison," and the name of at least two readily obtainable antidotes. Provided, further, that in a village of not more than eight hundred inhabitants, according to last census taken and authorized by an act of the congress of the United States, or in towns where there is no person licensed as a pharmacist, the board of pharmacy hereinafter

Unlawful for person not licensed to conduct pharmacy. etc.

Shall not interfere with legally licensed practitioner, etc.

Does not apply  
to sale of pat-  
ent medicines.

provided for may grant to any person who is licensed as assistant pharmacist, a permit annually to conduct a pharmacy or drug store in such town or village, which permit shall not be valid in any other than the place designated in said permit. Provided, however, that nothing in this section shall be so construed as to apply to the sale of patent and proprietary medicines, and in any locality where there is no licensed pharmacist or assistant pharmacist the ordinary household remedies and such drugs or medicines as may be specified by said board of pharmacy shall be permitted to be sold by those engaged in the sale of general merchandise. Provided, further, that nothing in this section shall be so construed as to prevent any person, firm, or corporation from owning a pharmacy, drug store, or apothecary shop, provided such store shall be in charge of a licensed pharmacist. And provided, further, that said board of pharmacy may grant to any legally licensed practicing physician in such towns, or villages an annual permit to conduct a pharmacy, drug store, or apothecary shop in such town or village, subject to the provisions of this act.

Section 2. Every person now registered or licensed as a pharmacist under the laws of the State of Alabama, shall be entitled to continue in the practice of his profession until the 31st day of December, 1910, and after that date shall be entitled to renewal annually of such license under the provisions of this act, upon the presentation of an application for such renewal. But any pharmacist, or licensed physician instead of applying for a renewal of his license or permit for one year, may, at his option, apply for any, and if proper, receive a license or permit to cover the term of his natural life, upon payment of ten dollars. Every person who shall hereafter desire to be licensed as a pharmacist or assistant pharmacist shall file with the secretary of said board of pharmacy an application duly verified under oath, setting forth the name and age of the applicant, the place or places at which and the time spent in the study of the science and art of pharmacy, and the experience in the compounding of physicians' prescriptions which the

applicant has had under the direction of a legally licensed pharmacist, and shall appear at a time and place designated by said board of pharmacy and submit to an examination as to his qualifications, for registration as a licensed pharmacist or assistant pharmacist.

Section 3. In order to be licensed as a pharmacist within the meaning of this act, an applicant shall not be less than twenty-one years of age, and shall have been licensed as an assistant pharmacist for not less than two years prior to his application for license as a pharmacist, or shall present to said board of pharmacy as satisfactory evidence that he has had not less than four years' practical experience in pharmacy, under the instruction of a licensed pharmacist, or two years' practical experience as above provided and shall have graduated in pharmacy at some school or college of pharmacy recognized by said board of pharmacy, and also passed a satisfactory examination by or under the direction of said board of pharmacy. In order to be licensed as an assistant pharmacist within the meaning of this act, an applicant shall be not less than eighteen years of age, and shall have had not less than two years' experience in pharmacy under the instruction of a licensed pharmacist, and shall pass a satisfactory examination by or under said board of pharmacy, who shall be the sole judges of his qualifications and competency.

Section 4. Should said board of pharmacy determine that the applicant possesses the necessary qualifications as to character and education, they shall enroll his name upon the register of pharmacists, or assistant pharmacists, as the case may be and issue to him a license which shall entitle him to practice as a pharmacist or assistant pharmacist for a period of one year from the date of said license. Whenever a license or permit has been granted under the provisions of this act, said board of pharmacy may, after due notice and hearing, revoke such license or permit for the following causes: Immoral or reprehensible conduct, drunkenness, or becoming addicted to the use of narcotic drugs.

Section 5. Said board of pharmacy may issue license to practice as pharmacists or assistant pharmacists in the State of Alabama, without

Qualification  
of licensed  
pharmacist.

License; may  
be revoked.

When and to  
whom license  
may be is

sued without  
examination.

examination, to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in other states or foreign countries; provided, that the applicant for such license shall present satisfactory evidence of qualifications equal to those required from licentiates in this State, and that he was registered or licensed by examination in such other state or foreign country, and that the standard of competency required in such other state or foreign country, is not lower than that required in this State; and provided, also, that the board of pharmacy is satisfied that such other State or foreign country accords similar recognition to the licentiates of this State. Applicants for license under this section shall, with their application, forward to the secretary of said board of pharmacy the same fees as are required of other candidates for license as hereinafter provided.

Fee.

License or  
permit may be  
renewed.

Section 6. Every person to whom a license or permit has been issued, shall, within thirty days next preceding the expiration of his license or permit, file with the secretary of said board of pharmacy, an application for the renewal thereof, which application shall be accompanied by the fee hereinafter prescribed. If the said board of pharmacy shall find that such person is entitled to a renewal of license, or to a renewal of such permit, said board shall issue to such applicant a certificate attesting that fact. If any pharmacist or assistant pharmacist shall fail for a period of sixty days after the expiration of his license to make application to said board of pharmacy for its renewal, his name shall be erased from the register of licensed pharmacists or assistant pharmacists, and such person to again become registered as a licensed pharmacist or assistant pharmacist shall be required to pay the same fee as in the case of original registration, provided, that his application for renewal is filed within two years from the expiration of his license. Should the application be filed after the expiration of two years, then the applicant must stand the examination before said board of pharmacy as if he were originally applying for a license.



Section 7. Every certificate of license to practice as a pharmacist and every permit to an assistant pharmacist, or other permit to conduct a pharmacy, drug store, or apothecary shop, in town, or villages as provided in section 1 of this act, and every renewal of such license or permit shall be conspicuously exposed in the pharmacy or store or place of business of which the pharmacist, or assistant pharmacist, or physician to whom such permit is issued, is the owner or manager or in which he is employed. The name of the owner or responsible manager of every pharmacy, drug store, or apothecary shop shall be conspicuously displayed upon the outside of such place of business.

License and name of owner to be displayed.

Section 8. Said board of pharmacy shall consist of five persons, members of the Alabama Pharmaceutical Association, not connected with any school of pharmacy, licensed as pharmacists with at least ten years practical experience, and actively engaged in the practice of pharmacy in the State of Alabama, who shall be appointed by the governor within thirty days after the approval of this act, whose term of office shall begin immediately upon their appointment and qualifying, for one, two, three, four and five years respectively, as designated in their several commissions. Annually thereafter, the Alabama Pharmaceutical Association may submit to the governor the names of five persons eligible to appointment, and from this number, or from others, the governor shall appoint one member to fill the vacancy annually occurring in said board of pharmacy, and vacancies occurring for any other cause shall be filled in like manner. It shall be the duty of each member of said board of pharmacy, within ten days after the receipt of notification of his appointment and commission, to appear before the judge of probate of the county in which he resides to take and subscribe an oath to properly and faithfully discharge the duties of his office, according to law. Provided, that no two members of said State board of pharmacy shall reside in the same county.

Board of pharmacy; term of office.

Vacancies; how filled.

Residence of members.

Section 9. Annually said board of pharmacy shall organize by the election of a president and a secretary and treasurer, all of whom shall be

Organization, election of officers.

**Meetings.**

members of said board, who shall hold their respective offices for one year, and until their successors shall have been elected and qualified. The secretary and treasurer shall each give bonds in such sum as may be prescribed by said board of pharmacy, conditioned to discharge the duties of their respective offices according to law. Provided, that such bonds shall be made payable to said board of pharmacy and approved by the president of said board. Said board of pharmacy shall hold an annual meeting at such time and place as it may provide by rule for the examination of candidates, and for the discharge of such other business as may legally come before it, and said board may hold such additional meetings as may be necessary for the examination of candidates, and for the discharge of any other business.

**Seal of board.****To keep record of proceedings.**

Section 10. Said board of pharmacy shall have a common seal, and shall have the power and authority to define and designate non-poisonous domestic remedies, adopt such rules, regulations and by-laws, not inconsistent with the laws of this State, as may be necessary for the regulation of its proceedings, and for the discharge of the duties imposed under this act, and shall have power and authority to employ an attorney to assist in prosecutions under this act, and for any other purposes which said board may deem necessary. Said board of pharmacy shall keep a record of its proceedings, and a register of all persons to whom certificates of license as pharmacists or assistant pharmacists and permits have been issued, and all renewals thereof; and the books and register of said board of pharmacy, or a copy of any part thereof certified by the secretary, attested by the seal of said board of pharmacy, shall be taken and accepted as competent evidence in all courts of the State. The said board of pharmacy shall make annually to the governor and to the Alabama Pharmaceutical Association, written report of its proceedings and of its receipts and disbursements under this act, and a list of all the persons licensed to practice as pharmacists and assistant pharmacists and to whom permits are issued in this State. A majority of said board shall constitute a quorum

for the transaction of all business. Any member of said board of pharmacy shall have the power to administer oaths in all matters pertaining to the discharge of the duties committed to said board of pharmacy under this act.

Section 11. The secretary of said board of pharmacy shall receive such salary as may be prescribed by said board, and his necessary expenses while engaged in the performance of his official duties. The other members of the board of pharmacy shall each receive the sum of five dollars (\$5.00) for each day actually employed in the discharge of their official duties, and their necessary expenses while engaged therein. All fees collected by the secretary for the examination of pharmacists and assistant pharmacists, and for the issuing of permits authorized by this act, and for the renewal of certificates of registration and permits, and all other funds collected by the secretary of said board of pharmacy under this act, shall by him be paid over to the treasurer of said board, and shall be placed to the credit of a fund which is hereby appropriated solely for the use of the board of pharmacy. The compensation and expenses of the secretary and members of said board of pharmacy, and all expenses incurred by said board of pharmacy in carrying out the provisions of this act, shall be paid out of said funds upon warrants issued upon the treasurer and signed by the president and the secretary of said board of pharmacy, provided, that in no case shall the State of Alabama be responsible for the payment for services of or any expense incurred by said board or any member thereof.

Compensation.

Disposition of fees collected.

Section 12. Said board of pharmacy shall have power to investigate all alleged violations of this act, or of any other law of this State regulating the dispensing or sale of drugs, medicines or poisons, or the practice of pharmacy, and whenever there has been a violation of said laws, it shall be the duty of the said board to call such violators to the attention of the circuit or county solicitor of the county in which said violation is alleged to have occurred, whose duty it shall be to prosecute for all violations of this act.

Power of board.

Fee for examination;  
other fees.

Section 13. Said board of pharmacy shall be entitled to charge and collect the following fees: For the examination of an applicant for a license as a pharmacist, five dollars (\$5.00); for the examination of an applicant for a license as an assistant pharmacist, three dollars (\$3.00); for renewing the license of a pharmacist, an assistant pharmacist, or physician holding permit, one dollar (\$1.00); for issuing a life certificate to a pharmacist, ten dollars (\$10.00); for issuing a permit to an assistant pharmacist to conduct a drug store in towns of not more than eight hundred inhabitants, one dollar (\$1.00), and one dollar (\$1.00) for each renewal of same. All fees shall be paid before any applicant may be admitted to examination or his name placed upon the register of pharmacists, or assistant pharmacists, or before any license or permit, or any renewal thereof, may be issued by said board.

Cocaine, etc.

Section 14. It shall be unlawful for any person, firm or corporation to sell, furnish, or give away any cocaine, alpha, or beta eucaine, opium, morphine, heroin, or any salt or compound of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances or their salts or compounds, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary medicine, which order or prescription shall be dated, and shall contain the name of the person for whom prescribed, or if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered, and shall be signed by the person giving the prescription or order. Such written order or prescription shall be preserved on file for a period of not less than five years by the person, firm or corporation who shall compound or dispense the article ordered or prescribed, and it shall not be again compounded or dispensed except upon the written order of the original prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber and properly authorized officers

Prescriptions.

of the law. Provided, however, that the above provisions shall not apply to preparations containing not more than two grains of opium, or not more than one-fourth grain of heroin, or not more than one-eighth grain of cocaine, or not more than one-eighth grain of alpha or beta eucaine in one fluid ounce, or, if a solid preparation in one avoirdupois ounce. Provided, also, that the above provision shall not apply to preparations containing opium and recommended and sold in good faith for diarrhea and cholera, each bottle or package of which is accompanied by specific directions for use, and a caution against habitual use, nor to powder of ipecac and opium commonly known as Dover's powders, nor to liniments or ointments when plainly labeled "for external use," nor to the sale of laudanum in quantities not exceeding one ounce to the same person in one day. And provided, further, that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers, and manufacturers, to general merchandise stores, to retail druggists or qualified physicians, or to each other, nor to sales at retail by retail druggists to regular practitioners of medicine, dentistry, or veterinary medicine, or to each other, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to sales to hospitals, colleges, scientific or public institutions. It shall be unlawful for any practitioner of medicine, dentistry, or veterinary medicine, to furnish to or to prescribe for the use of any habitual user of the same, any cocaine, heroin, alpha or beta eucaine, opium, morphine, or any salt or compound of any of the foregoing substances, or any preparation containing any of the foregoing substances, or their salts or compounds. And it shall also be unlawful for any practitioner of dentistry to prescribe any of the foregoing substances for any person not under his treatment in the regular practice of his profession, or for any practitioner of veterinary medicine to prescribe any of the foregoing substances for the use of any human being. Provided, however, that the provisions of this section shall not be construed to prevent any lawfully authorized

Unlawful to  
furnish opium,  
etc.

practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of narcotic drugs who is under his professional care such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this act.

Unlawful to  
retail poisons.

Section 15. That it shall be unlawful for any person to retail any poisons enumerated in schedules "A" and "B," which are as follows, except upon the conditions hereinafter named: Schedule "A,"—Arsenic and its preparations, biniodide of mercury, cyanide of potassium, carbolic acid, hydrocyanic acid, strychnine, and all other poisonous alkaloids and their salts not included in section 14 of this act, and the essential oil of bitter almonds; Schedule "B,"—Aconite, belladonna, colchicum, coniu, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, veratrium, digitales, and their pharmaceutical preparations, croton oil, chloroform, sulphate of zinc, corrosive sublimate, red precipitate, white precipitate, mineral acids, and oxalic acid. Provided, that any of the poisons hereinabove included in schedule "A" may be legally sold by any registered pharmacist, but he shall, before delivering the same to the purchaser, cause an entry to be made in a book kept for that purpose, stating the date of sale, name and address of purchaser, the name of poison sold and the amount, the purpose for which it was represented by the purchaser to be required, and the name of the dispenser,—such book to be always open for inspection by the proper authorities, and to be preserved for at least three years. Provided, further, that any of the poisons hereinabove named in schedule "B" may be legally sold, but only on the condition that the person, firm or corporation selling or furnishing the same shall label the box, vessel or paper in which the said poison is contained with the word "Poison" and the name and the place of business of the seller. Nor shall it be lawful for any registered pharmacist to sell or deliver any poisons enumerated in schedule "A" and "B" above, unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is

Who may sell.

Record of  
sales to be  
kept.

to be used for legitimate purposes. The provisions of this section shall not apply to the dispensing of poison in not unusual quantities or upon the prescriptions of practitioners of medicine.

Section 16. Every proprietor or manager of a pharmacy, drug store, or apothecary shop, shall keep in his place of business a suitable book or file, in which shall be preserved for a period of not less than five years, the original or a copy of the same, of every prescription compounded or dispensed at such store or pharmacy, numbering, dating, and filing them in the order in which they are compounded, and shall produce the same in court or before any grand jury whenever lawfully required to do so. And, upon request, the proprietor or manager of such store shall furnish to the prescribing physician and may, except when otherwise instructed by the prescribing physician, furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy thereof, and said book or file shall at all times be open for inspection by duly authorized officers of the law. Provided, that no copies be given of prescriptions containing any of the substances included in section 14 of this act.

Section 17. That any itinerant vendor who shall sell or offer for sale any drug, poison, ointment, or medicinal preparation intended for treatment of any disease or injury, who shall by speech writing or printing, or any other method, publicly profess to cure or treat disease or injury or deformity by any drug, nostrum or medicinal preparation, shall pay a license of two hundred and fifty dollars (\$250.00) per annum to the State to be paid in the manner for obtaining public license, or according to the usual laws for that purpose, provided such license shall not authorize the violation of any of the provisions of this act.

Section 18. Whoever, not being licensed as a pharmacist, shall conduct or manage any drug store, pharmacy, or other place of business for the compounding, dispensing, or sale at retail of any drugs, medicines, or poisons, or for the compounding of physicians' prescriptions, contrary to the provisions of this act, shall be deemed

Record of prescriptions required.

Itinerant vendor to pay license.

Violations, penalty.

guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), and each week or part thereof that such drug store or pharmacy or other place of business is so unlawfully conducted shall constitute a separate and distinct offense. Whoever, not being licensed as a pharmacist or assistant pharmacist, shall compound, dispense, or sell at retail any drug, medicine, poison, or medicinal preparation, either upon a physician's prescription or otherwise, and whoever, being the owner or manager of a drug store, pharmacy, or other place of business, shall cause or permit anyone not licensed as a pharmacist or assistant pharmacist to dispense, sell at retail, or compound any drug, medicine, poison, or physician's prescription contrary to the provisions of section 1 of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than (\$10.00) ten dollars, nor more than fifty dollars (\$50.00). Any license or permit or renewal thereof obtained through fraud or by any false or fraudulent representation shall be void and of no effect at law. Any person who shall procure by false or fraudulent representation, a license or permit, or the renewal thereof, or who shall make any false or fraudulent representation for the purpose of procuring a license or permit, or renewal thereof, either for himself or for another, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00); and any person who shall wilfully make a false affidavit for the purpose of procuring a license or permit, or renewal thereof, either for himself or for another, shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to like punishment as in other cases of perjury. Whoever, being the holder of any license or permit, granted under this act, shall fail to expose such license or permit, or any renewal thereof in a conspicuous position in the place of business to which such license or permit relates, or in which the holder thereof is employed, contrary to the provisions of this act,

Penalty for  
failure to ex-  
pose license.



shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars (\$5.00), nor more than twenty-five dollars (\$25.00), and each week or part thereof that such license, permit, or renewal shall not be exposed, shall be held to constitute a separate and distinct offense, and whoever, being the holder of any license, or permit granted under this act, shall after the expiration of such license or permit, and without renewing the same, continue to carry on the business for which such license or permit was granted, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars (\$5.00), nor more than twenty-five dollars (\$25.00). Any person who shall violate any of the provisions of section 14 of this act shall be deemed guilty of a misdemeanor, and, upon conviction for the first offense shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), and upon conviction of a second offense shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and upon conviction for a subsequent offense shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), and shall be sentenced to hard labor to the county not more than six months, and if a licensed pharmacist, or assistant pharmacist, his license shall be revoked by said board of pharmacy. It shall be the duty under this act of all judges at every regular term of their courts to charge all regularly empaneled grand juries to diligently inquire into and investigate all cases of the violation of the provisions of section 14 of this act, and to make a true presentment of all persons guilty of such violations. It shall be the duty of said board of pharmacy to cause the prosecution of all persons violating the provisions of said section 14. No prosecutions shall be brought for the sale of any patent or proprietary medicine containing any of the drugs or preparations hereinbefore mentioned until said board of pharmacy shall certify that such medicine contains any of the said drugs or preparations in excess of the maximum percentages hereinbefore

Judge to  
charge grand  
jury as to vio-  
lations.

Prosecutions,

penalties.

mentioned. Whoever shall violate any of the provisions of section 15 of this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00). Whoever shall fail to preserve the original of any prescription or a true copy of same, or to produce same when lawfully required in accordance with the provisions of section 16 of this act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person violating any of the provisions of section 17 of this act shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty dollars (\$50.00), nor more than one hundred (\$100.00) for each offense. Whoever, not being legally licensed as a pharmacist, shall take or exhibit the title of pharmacist, licensed or registered pharmacist, druggist, apothecary, or any other title of similar import contrary to the provisions of section 18 of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

Repeal of con-  
flicting laws.

Section 19. All laws and parts of laws in conflict or inconsistent with the provisions of this act, are hereby expressly repealed.

Approved Aug. 26, 1909.

No. 74)

AN ACT

(H. 95

To authorize a certified copy of a decree rendered by a court of competent jurisdiction of another State, relieving a non-resident minor of the disabilities of non-age, to be recorded in the probate office of any county in this State where such minor owns property, and when so recorded the said decree to have the same force and effect in this State as in the State where rendered. Be it enacted by the Legislature of Alabama:

Certificate of  
removal of dis-  
ability of non-

1. That a copy of a decree rendered by a court of competent jurisdiction of another State of the United States, duly certified according to the

acts of Congress of the United States, relieving a minor, non-resident of this State, of the disabilities of non-age, may be recorded in the probate office of any county in this State, where such minor owns property and when so recorded the said decree shall have the same force and effect throughout this State as in the State where rendered.

2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

age of other States recognized.  
Repeal of conflicting laws.

Approved Aug. 25, 1909.

No 208.)

AN ACT

(H. 305.

To require all persons, firms or corporations engaged in or carrying on the business of issuing trading stamps to merchants to pay a license tax. Be it enacted by the Legislature of Alabama:

1. That every person, firm or corporation who engages in, or carries on the business or issuing, or sellin gto merchants, trading stamps, or any device or substittue therefor, which are to be given by the merchant to the purchaser of any goods, wares or merchandise which are paid for at the time of delivery, and which stamps the person, firm or corporation engages to accept in payment of goods, wares and merchandise, kept for sale by the person, firm or corporation issuing or selling the trading stamps, shall pay to the State of Alabama a privilege, or license tax of one thousand dollars a year, and to the county a privilege, or license tax of five hundred dollars a year, when the amount of stamps sold does not exceed five thousand dollars per annum; in case it exceeds five thousand dollars and does not exceed ten thousand dollars, two thousand dollars to the State and one thousand dollars per annum to the county; and when the gross sales exceed ten thousand dollars a year, then the annual license tax shall be five thousand dollars to be paid to the State, and three thousand dollars to the county. Every person, firm or corporation who takes out and pays for a license to

License for issuing.

Sworn re-  
turn re-  
quired.

engage in, or carry on the business of issuing, or selling to the merchants, trading stamps, by whatever name called, shall on or before December 31 of every year make a sworn return, to the State auditor, of all trading stamps sold during that year, giving the name and address of every merchant or mercantile establishment which bought of or had issued by, the person, firm, or corporation making the return, and if it appears therefrom that the amount of trading stamps sold during the year, exceeds the license taken out, the State auditor shall demand and collect the full amount shown to be due or license tax to the State, and notify the probate judge of every county of the amount due that county, and no license shall thereafter issue, till all these sums are paid.

Violations,  
penalty.

2. Any person, firm or corporation who engages in or carries on the business described in the first section of this act without having taken out and paid for the license required herein, must on conviction be fined not less than three thousand dollars.

Approved Aug. 26, 1909.

No. 91)

AN ACT

(H. 61

To prohibit the display of nude pictures of a man, woman or girl in any public place, except art galleries. Be it enacted by the Legislature of Alabama:

Nude pic-  
tures not to be  
exposed.

Penalty for  
violation.

1. That it shall be unlawful to display nude pictures of any man, woman or girl in any public place, except art galleries.

2. That any one who shall violate sec. 1 of this act shall on conviction be fined not more than five hundred dollars (\$500.00).

Approved Aug. 25, 1909.

No. 94)

AN ACT

(S. 66

To authorize the cities and towns of this State to convey real or personal property and to make appropriations of money from city

funds, and issue bonds to aid in the location and in the construction of high schools and high school buildings, and to ratify and confirm all such conveyances and appropriations which have heretofore been made by any such city or town.

Section 1. Be it enacted by the Legislature of Alabama, That the cities and towns of this State be and they are hereby authorized and empowered to convey real or personal property belonging to such cities or towns, and to make appropriations from city or town funds, and issue bonds to aid in the location and in the construction of high schools and high school buildings under the act of the Legislature of Alabama, approved August 7, 1907, entitled "An act to provide for the establishment of high schools in this State, and to make appropriations for said schools." High schools, cities and towns authorized to appropriate to.

Section 2. That all such conveyances of property and appropriations of funds which have heretofore been made for the purpose named in section 1 of this act, be and the same are hereby ratified and confirmed. Former appropriations confirmed.

Approved Aug. 26, 1909.

No. 119) AN ACT (S. 48

To amend section 5885 of the Code of Alabama.

Be it enacted by the Legislature of Alabama, That section 5885 of the Code of Alabama be amended so as to read as follows: 5885. Who qualified to vote.—All qualified electors who are bona fide residents in the precinct or precincts where the election is held shall be entitled to vote, and none others. Section 588 amended. Who qualified to vote.

Approved August 25, 1909.

No. 124) AN ACT (S. 92

To amend section 545 of chapter 17 of the Code.

Be it enacted by the Legislature of Alabama, That section 545 of chapter 17 of the Code be amended as to read as follows: Section 545. It Section 545 Chapter 17 of Code amended

shall be unlawful for any person not a registered embalmer, to practice embalming. Provided, however, that any licensed physician may embalm bodies in case of death outside of any incorporated municipality having a population of 500 inhabitants, or in such municipality at any time when there is no licensed embalmer in said municipality.

Approved August 26, 1909.

No. 127)

AN ACT

(S. 74

To amend section 5304 of the Code of Alabama.

Section 5304  
amended,  
service of  
process.

Be it enacted by the Legislature of Alabama, That section 5304 of the Code of 1907 be amended so as to read as follows: 5304 (3275) Service on person or corporation operating railroad of domestic corporation, and on owner of such railroad. Whenever any railroad corporation created by the authority of the laws of this State shall permit its railroad to be used or operated by any other person or corporation, whether by contract or otherwise, process issuing against the person or corporation so using or operating such railroad may be served upon any station agent or person in charge of any depot along the line of such railroad, and any station agent or person in charge of any depot along the line of such railroad shall be deemed and held the agent of the owner of such railroad for the purpose of the service of process issuing against such owner, whether such railroad is being operated by the owner of thereof or by another.

Approved August 26, 1909.

No. 136)

AN ACT

(S. 10

To amend section 3549 of the Code of Alabama.

Section 3549  
amended.

Appointment  
of State bank

Section 1. Be it enacted by the Legislature of Alabama, That section 3549 of the Code of Alabama be amended so as to read as follows: "3549. The governor of the State shall appoint a State bank examiner, and as many assistant bank ex-

aminers, not exceeding two in number, as may <sup>examiner</sup> be required to make two examinations annually <sup>and assistants.</sup> of each bank in the State. The said bank examiner and assistants shall be competent and experienced accountants, and shall not be directly or indirectly interested in any bank in this State, State or national, either as agent, officer, employe or shareholder. The bank examiner shall <sup>Salary of</sup> receive a salary of two thousand dollars per annum <sup>examiner, etc.</sup> and actual traveling expenses; his term of office shall be the same as the treasurer, and he shall be subject to removal for cause by the governor. The assistant bank examiners shall give bond in the sum of five thousand dollars each, <sup>Bond.</sup> conditional and payable as in the case of the bond of the State bank examiner, they shall receive salaries of eighteen hundred dollars per <sup>Salary of as-</sup> annum, and actual traveling expenses, and their <sup>stantia.</sup> term of office shall be the same as that of the treasurer, and they shall be subject to removal for cause by the governor. The salary and necessary traveling expenses of the bank examiner, <sup>Salaries and</sup> and assistant bank examiners shall be itemized <sup>expenses to be</sup> and verified by affidavit, and shall be audited by the State auditor, and paid monthly by warrant drawn by the auditor upon the treasurer in favor of said examiner and assistant examiners. The power and duties of the assistant bank <sup>Power and</sup> examiners shall be the same as those prescribed by <sup>duty of as-</sup> law for the bank examiner, and they shall be <sup>stantia.</sup> under the general direction and control of the bank examiner.

Approved August 26, 1909.

No. 150)

AN ACT

(H. 336

To repeal section No. 3290 of the Code of Alabama.

Be it enacted by the Legislature of Alabama, as follows: Section 1. That section 3290 of the Code of Alabama be and the same is hereby repealed. <sup>Section 3290</sup>

Approved August 26, 1909.

No. 158)

(H. J. R. 86)

Printing  
copies general  
and local acts.

In one  
volume.

Distribu-  
tion.

Be it resolved by the House of Representatives, the Senate concurring, that the Secretary of State of the State of Alabama, be and he is hereby authorized and directed to have printed and bound four thousand five hundred copies of the General and Local Acts of the present session of the Legislature of Alabama. That the said acts shall be bound in one volume, the acts of a general character to appear first in the volume and the acts of a local or special character to appear last. The acts shall be printed, indexed and bound in all respects as now required by law. Be it further resolved, that in making the distribution now provided by law, the Secretary of State is hereby authorized and directed to distribute to every officer, library and school entitled to the general acts of this present session the same number of copies of the general and local acts so bound in one volume as said officer, library or school is now entitled to receive.

Approved August 25, 1909.

No. 160.)

AN ACT

(H. 355.)

To provide for the assumption and payment of all contracts, debts, liabilities and bonds of every kind and character, of any city or town which has been absorbed or whose government has been extinguished by the alteration or rearrangement of the boundary lines of another city or town, and to provide for the completion of local improvements, the making and collection of assessments for such improvements, and the issue of bonds to anticipate the collection of deferred installments of such local improvement assessments by the city or town whose boundary lines are so altered or rearranged.

Shall pay all  
debts, etc.  
of town ab-  
sorbed.

Section 1. Be it enacted by the Legislature of Alabama, That when any municipal corporation has been absorbed, or its government extinguished by the alteration or rearrangement of the boundary lines of another city or town,



the city or town whose boundary lines have been altered and rearranged shall assume and pay any and all debts, liabilities and bonds of every kind and character, and the interest thereon when the same becomes due, which may have been lawfully contracted or issued by the city or town so absorbed, or whose government has been extinguished, and the city or town whose boundary lines have been altered and rearranged, and thereby absorbing and extinguishing the government of another municipality, shall assume, carry on and complete all contracts for local improvements which may have been entered into by the city or town so absorbed, or whose government has been so extinguished, and the said city or town whose boundary lines have been so altered or rearranged shall have all the powers with reference to the making of assessments for local improvements, the collection thereof, as if such improvements had been originally instituted by it, and such last described city or town is hereby authorized, empowered and required to grant to property owners the same privileges of paying local assessments in installments, as they would be entitled to, if their municipal organization had not changed, and for the purpose of carrying into effect this privilege the city or town whose boundary lines have been so altered or rearranged shall issue its bonds in the place and stead of the bonds which would have been issued by the city or town whose government has been extinguished, to the end that all contracts for local improvements and the sale of bonds to carry on the same shall be faithfully observed and executed.

Approved Aug. 25, 1909.

No. 164)

AN ACT

(H. 343

For the relief of J. R. Harper a Confederate soldier.

Section 1. Be it enacted by the Legislature of Alabama: That the pension board of the county <sup>Transferred</sup> from 4th class. and of the State be and they are hereby directed

to transfer from the fourth class to first class, J. R. Harper of Marengo county, a Confederate veteran, who is old, nearly blind, ruptured and totally unable to do manual labor.

Pension board shall certify transfer to 1st class to auditor.

Section 2. That upon the passage and approval of this act the pension board shall certify to the auditor the transfer of the said veteran from the fourth class to the first class pensioners, and upon the filing of said certificate the auditor shall draw his warrant in favor of the said J. R. Harper as a first class pensioner.

Approved Aug. 25, 1909.

No. 165)

AN ACT

(H. 288)

To require the courts of county commissioners, Boards of Revenue or like officers of each county in the State of Alabama to pay, out of any funds in the county treasury, all the expense, including a reasonable attorneys fee, incurred by the county treasurer in resisting the payment of any warrant, where said resistance is successful.

Payment authorized.

Section 1. Be it enacted by the Legislature of Alabama, That the Courts of County Commissioners, Boards of Revenue or like officers, of each county in the State of Alabama, be and the same are hereby required to pay out of any funds in the county treasury, all the expense, including a reasonable attorneys fee, incurred by the county treasurer in resisting the payment of any warrant, where said resistance on the part of said county treasurer is successful.

Approved Aug. 25, 1909.

No. 175)

AN ACT

(H. 296)

To amend Section 572 of the Code of Alabama.

Section 572 amended.

Contingent fund.

Section 1. Be it enacted by the Legislature of Alabama, that section 572 of the Code of Alabama be and the same is hereby amended so as to read as follows: 572. Contingent Fund. There is hereby appropriated for the fiscal year of 1909-1910 the sum of twenty thousand dollars

and annually thereafter the sum of ten thousand dollars for the contingent expenses of the executive department, to be paid out of the treasury on the warrant of the state auditor under the direction of the governor; provided, that any part of such annual appropriation may in the discretion of the governor be used for the better enforcement of the laws of Alabama; provided further, that out of the appropriation for the fiscal year 1909-1910 all costs for the publication of the proclamation of the governor according to law of the amendments or amendments proposed to the constitution of this State and of the publication of the notices of the election held upon said amendment or amendments may be paid.

Approved Aug. 25, 1909.

No. 190)

AN ACT

(H. 79

To regulate sale of food and drugs in the State of Alabama, To provide for enforcement and inspectors and prescribe penalties for violation thereof. Be it enacted by the Legislature of Alabama.

1. That it shall be unlawful for any person, <sup>Unlawful to</sup> firm or corporation to manufacture, to sell or <sup>manufacture,</sup> offer for sale within the State of Alabama any <sup>sell, etc., any</sup> article, food or drugs which is adulterated or <sup>article, etc.,</sup> misbranded or which contains any poisonous or <sup>adulterated,</sup> deleterious substance within the meaning of this act, and any person who shall violate any of the <sup>etc.</sup> provisions of this act, shall be guilty of a misdemeanor and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars or shall be sentenced to one years imprisonment, or both such fine and imprisonment in the discretion of the court, and for each subsequent offense, and on conviction thereof, shall be fined not exceeding one thousand dollars or sentenced to two years imprisonment or both such fine and imprisonment in the discretion of the court.

2. That the examination of specimens of food <sup>Examination.</sup> or drugs, shall be made by the State chemist and assistants as herein provided for under the direction and supervision of commissioner of agricul-

ture and industries or municipal or county inspectors where appointed for the purpose of determining from such examinations whether articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examinations that any of such specimens are adulterated or misbranded within the meaning of this act the commissioner of agriculture and industries shall cause notice thereof to be given to the party from whom such sample is obtained. Any party so notified shall be given an opportunity to be heard before the commissioner of agriculture and industries and the attorney general or the municipal or county inspector where appointed and circuit court solicitor, under such rules and regulations as may be prescribed by the commissioner of agriculture and industries and the attorney general and if it appears that any of the provisions of this act have been violated by such party the commissioner of agriculture and industries or other assistants as herein provided for shall at once certify the fact to the proper prosecuting attorney with a copy of the result of the analysis, or of the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. That in case it shall appear to the satisfaction of the commissioner of agriculture and industries and the attorney-general that the violation of this act is properly a subject of interstate commerce or otherwise comes under the supervision and jurisdiction of the United States then the commissioner of agriculture and industries, municipal or county inspector, where appointed, or other assistants, as herein provided for shall certify the case to the United States district attorney in whose district the violation may have been committed; but if it be under the Jurisdiction of the courts of this State, then the commissioner of agriculture and industries, municipal or county inspectors, where appointed, or other assistants as herein provided for shall certify the case to the solicitor of the court in the county where the offense occurred. It shall be the duty of the state solicitor to prosecute all persons violating any of the provisions of this act as soon as he receives evidence trans-

Duty of State  
solicitor to  
prosecute.

mitted by the commissioner of agriculture and industries, municipal or county inspectors where appointed, or other assistants as herein provided in the several counties of the State. Provided city attorneys shall prosecute with assistance of court solicitors and the attorney-general suits brought by municipal authorities and inspectors. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

3. That the term "drugs" as used in this act shall include all medicines and preparations recognized in the United States Pharmacopeia or National Formulary, for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or animals. The term "food" as used herein shall include all articles used for food, drink, confectionary or condiment by man or animals, whether simple, mixed or compound.

4. That for the purpose of this act an article shall be deemed to be adulterated, In case of drugs. 1st. If when a drug is sold under or by a distinctive name recognized in the United States Pharmacopeia or National Formulary, it differs from the standard strength, quality, or purity, as determined by the test laid down in the United States Pharmacopeia or National Formulary official at the time of investigation provided, that no drug defined in the United States Pharmacopeia or National Formulary shall be deemed to be adulterated under this provision of the standard of strength, quality or purity be plainly stated on the bottle, box or container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopeia or National Formulary. 2nd. If its strength or purity shall fall below the professed standard or quality under which it was sold. In case of confectionary: If it contains terraalba, barytes, talc, chrome yellow, burnt umber or other mineral substance, or poisonous coloring or flavoring or other ingredients detrimental to health, or any vinous, malt or spiritous liquor, or compound or narcotic drug. In

"Drugs" defined.

"Food" defined.

When drugs deemed adulterated.

When confectionary deemed adulterated.

When food  
deemed adul-  
terated.

case of food: 1st. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength. 2nd. If any substance has been substituted wholly or in part for the article. 3rd. If any valuable constituent of the articles has been wholly or in part abstracted. 4th. If it be mixed, colored, powered, coated or stained, in a manner whereby damaged or inferiority is concealed. 5th. If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health; provided, that when in preparation of food for shipment, they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of such preservative, given name and component parts (in red letters) on the covering of the package, or on a tag securely attached to the article; the provisions of this act shall be construed as applying only when said products are ready for consumption, and shipment or delivery to retail trade. 6th. If the package, vessel or bottle containing it shall be of such a composition, or carry any attachment of such a composition or metal or alloy, as will be acted upon in the ordinary course of use by the contents of the package, vessel or bottle in such a way as to produce an injurious, deleterious, or poisonous compound. 7th. If it consists in whole or in part of a filthy, tainted, decomposed or putrid animal, or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

"Misbranded"  
defined.

5. That the term "misbranded" as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such articles, or the ingredients or substances contained therein, which shall be false or misleading in any particular, or to any food or drug product which is falsely branded, as to the state, territory, or country in which it is manufactured or produced. That for the purpose of this act an arti-

cle shall also be deemed misbranded. In case <sup>In case of</sup> of drugs. 1st. If it be an imitation of or offered <sup>drugs.</sup> for sale under the name of another article. 2nd.

If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fails to bear a true statement on the label or fail to show in conspicuous letters a true statement as is or may be prescribed by the United States law or rules and regulations of the quantity and proportion of any alcohol, spirituous, vinous or malt liquor, morphine, opium, cocaine, heroin, alpha, or beta, eucaine, chloroform, cannabis, indica, chloral hydrate, antipyrine, or acetanilid, or any derivative or preparation of any such substances contained therein; provided that nothing in this paragraph shall be construed to apply to such preparations as are specified and recognized by the United States Pharmacopeia or National Formulary or to prescriptions of licensed practitioners of medicine or dental surgery and veterinary surgeons in course of their personal practice.

In case of foods, 1st. If it be an imitation <sup>In case of</sup> of or offered for sale under the distinctive name <sup>foods.</sup> of another article, 2nd. If it be labeled or branded so as to deceive or mislead the purchaser, or purports to be foreign product when not so, or is an imitation in package or label of another substance of a previously established name, or which has been trade marked or patented, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if it fails to bear a true statement on the label in conspicuous letters of the quantity or proportion of any alcohol, morphine, malt, malt extract, opium, cocaine, heroin, alpha or beta, eucaine, chloroform, cannabis indica, chloral hydrate, antipyrine or acetanilid, or any derivative or preparation of any such substances contained therein.

3rd. If in package form and the contents are stated in terms of weight or measure, they are not plainly or correctly stated on the outside of the package. 4. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or substance contained

When not  
deemed adul-  
terated or  
misbranded.

therein, which statement, design or device shall be false or misleading in any particular; provided that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: 1st. In the case of mixtures or compounds which may be now, or from time to time, hereafter known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where the said article has been manufactured or produced. But in case of baking powders every can or other package shall be labelled so as to show clearly and exactly what acid salt and what amount has been used in making the same. 2nd. In the case of articles, labeled, branded or tagged, so as to plainly indicate that they are compounds, imitations, or blends, and the words compound, imitations, or blend, as the case may be, is plainly stated in larger letters than other printing on the package in which it is offered for sale; provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring only; and provided further that the label bear a true statement of the names of the ingredients entering into or going to make up the food sold or offered for sale in Alabama, as imitations, compounds, or blends; and provided, that this act shall not apply to stocks of drugs and medicines on hand in this State, until the first day of January, 1910, with exception set forth in Sec. 17 of this Act.

Dealer not  
prosecuted  
when he can  
establish  
guarantee.

6. That no dealer shall be prosecuted under the provisions of this act when he can establish a guarantee signed by the wholesale jobber, manufacturer, or other party from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guarantee, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such cases,



the said party or parties shall be amenable to the prosecution, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this act.

7. That any article of food, drug or liquor that is adulterated or misbranded within the meaning of this act shall be liable to be proceeded against in any court of the State of Alabama, where practicable within the county where the same is found and seize for confiscation by a process of libel or condemnation. And if such article is condemned as being adulterated or misbranded or of a poisonous or deleterious character, within the meaning of this act, the same shall be disposed of by destruction or sale as the trial court may determine and direct, and the proceeds thereof, if sold, less the legal cost and charges, shall be paid into the treasury of the State of Alabama, but such goods shall not be sold in any jurisdiction in this State contrary to the provisions of this act or the National Pure Food Law.

Proceeded  
against by pro-  
cess of con-  
demnation.

8. That the words "person or party," as used in this act, shall be construed to import the plural and the singular, as the case demands, and shall include corporation, companies, societies, and association. When construing and enforcing the provisions of this act, the act or omission or failure of any officer, agent or other person acting for or employed by the corporation, company, society, or association within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, company, or association, as well as that of the person.

"Person or  
party."

9. That the commissioner of agriculture and industries assisted by the State chemist and the municipal or county inspectors for the several counties of the state, when such are appointed or elected, and all police officers and sheriffs of the State, are hereby charged with the duties of inspection and analysis, required for the proper enforcement of this act.

Commissioner  
of agri-  
culture and  
industries  
etc., charged  
with duty of  
inspection,  
etc.

10. The municipalities shall make such provisions and expenditures for apparatus etc., for the enforcement of this act as seems best and proper to the city council.

Apparatus, etc.

Samples for  
analysis,

11. That samples for analysis may be taken by such officers as are named or mentioned in this act, or other duly qualified and sworn state agents, authorized and carrying proper certificate by and from the commissioner of agriculture and industries. They shall take samples of such articles as may be directed by the commissioner of agriculture and industries, or that in their opinion are below the standards of quality required in this act and in the manner prescribed herein; whenever practicable, samples shall be taken in original unbroken packages, said packages to be wrapped and tied securely and sealed over the cord with sealing wax on which they shall impress their official seal. That in case it is not practicable to take or send sample for analysis in original package as for instance, in case of syrups, or other liquids in barrels, or flour in barrels and etc., such officer shall take a fair sample of the same in the presence of the seller, place it in a suitable receptacle, securely close and wax it and impress his official seal upon the wax, number and forward the same to the commissioner of agriculture and industries, or take it to his office for examination and analysis. In the execution of their duties the commissioner of agriculture and industries, State Chemist, the duly authorized state agents, and the Municipal and county inspectors of the several counties where elected or appointed, shall have free access at all reasonable hours into any place where it is suspected that impure foods are being manufactured, or wherein any article of food or drug adulterated with any deleterious or injurious foreign ingredients exists or wherein any offense as prohibited by this act is being committed by manufacturer or seller. In taking samples the retail price of the same must be tendered to the seller or manufacturer.

12. That any manufacturer or dealer or other person, who shall impede, obstruct, tender or otherwise prevent or attempt to prevent any duly authorized agent or person named in Section 11 of this act, in the performance of his duties in collecting samples or otherwise in connection with this act, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than ten, nor more than five hundred dollars.

13. That it shall be the duty of the commissioner of agriculture and industries with the assistants herein provided to fix the standards of purity for all food and drug products when the same are not fixed by this act, in accordance with those promulgated by the secretary of agriculture, the secretary of the treasury and the Secretary of commerce and labor of the United States (except as herein provided) when such standards have been published; and when not yet published, the commissioner of agriculture with the assistance of the State chemist, shall fix such standards, provided that the standards for pure leaf lard, compound lard, mixed edible fats and cotton-seed oils are hereby defined as follows:

**Pure Leaf Lard.** Is lard rendered at moderately high temperatures from the internal fat of the abdomen of the hog, excluding that adhering to the intestines, and has an iodine number not greater than sixty (60). Lard, is the rendered fresh fat from slaughtered healthy hogs, free from acidity, and contains not more than one per cent of substances, other than fatty acids, not fat, necessarily incorporated therewith in the process of rendering. **Compound lard.** Compound lard is lard rendered at low temperatures from the fatty meats from fresh slaughtered healthy hogs, or which contains other ingredients than pure fat of the swine, and not over twenty-five per cent of beef sterine which percentage shall be specified on the label of the container of such goods. Pure leaf lard, lard and Compound lard, as above named must not be made from a diseased animal, or any portion of an animal unfit for food or contains less than the percentage of fat and of the character as specified for each one and shall be plainly labeled and shall conform in quality to specification herein set out by this act. A mixed edible fat is hereby defined to be a mixture which contains not less than ninety-nine per cent of sweet-mixed fat, and may consist of a mixture of refined cotton-seed oil or other edible vegetable oils with sweet beef fat or other edible animal fats, and must be sold under a registered or proprietary brand and properly labeled with the names of the ingredi-

Standards of purity fixed by commissioner of agriculture and industries, and assistants.

Pure leaf lard

Lard.

Compound lard.

Mixed edible fat.

Cotton seed oil.

White cotton seed oil.

Winter cotton seed oils.

Commissioner of agriculture and industries shall furnish certificate of analysis to State solicitor.

Monthly reports.

Establish rules and regulations.

ents, and with a distinctive trade mark, or name bearing the name of the manufacturer, Edible cotton-seed oil is hereby defined as refined cotton-seed oil, free from disagreeable taste or odors. White cotton-seed oil for edible purposes is cotton-seed oil which has been refined in such a manner as to be nearly colorless, flavorless and odorless. Winter cotton-seed oils, for edible purposes are those from which a portion of the stearine has been removed. They may be either white or yellow. Whenever the commissioner of agriculture with the assistance of the State chemist or the municipal or county inspectors may find, by analysis that adulterated, misbranded or imitation, drugs, liquors, or food product have been manufactured for sale, or put on sale in this State, he shall forthwith furnish a certificate of analysis to that effect to the state solicitor in the county, attorney for municipality where the said adulterated misbranded, or imitation drug, liquor or food product was found and it shall be the duty of the state solicitor attorney for municipality to immediately prosecute, any and every person violating any the provisions of this act as soon as he receives the evidence as herein specified from the commissioner of agriculture and industries of the State or the municipal or county inspectors, where elected or appointed for the several counties of the State.

14. That the special food and drug clerk (in the commissioner of agriculture and industries office) and the municipal and county inspectors of the several counties where elected or appointed shall make monthly reports to the commissioner of agriculture and industries of work done in execution of this act, which reports shall be published with enumerations from each separate county.

15. That the commissioner of agriculture and industries with the advice of the governor and attorney-general, shall have authority to establish such rules and regulations as shall not be inconsistent with the provisions of this act, and as in his judgment, will best carry out the requirements thereof. He may exercise discretion as to the class of products he will first subject to rigorous inspection and analysis, realizing that

the fullest and most complete execution of this law under a limited appropriation must be a matter of growth, that he is hereby directed, as soon as possible, to suppress the sale of adulterated cheese, butter, candy, and condiments, vinegar, syrups and molasses, leaf lard, compound lard and cotton-seed oil by products and the misbranding of any such goods in the State of Alabama.

16. That in order to enforce and carry out the provisions of this act, the sum of two thousand and dollars, or so much thereof as may be necessary, be immediately available when this act goes into effect, and that the fund arising from fees collected by this office (under this act) and all fines paid into the courts of the state from prosecutions under this act shall be covered into the State treasury as a separate account for the maintenance of this special department of the commissioner of agriculture and industries office and any surplus accruing thereto shall go to the public school funds. Provided, that municipalities may retain fees and fines to support the work in their respective municipalities.

17. That this act shall be in full force and effect from and after January 1st, 1910, except as to drugs, patent and proprietary preparations or medicines on which this act shall be in full force and effect except where labelled bought prior to passage of Alabama Pure Food and Drug Act.

18. That all laws and parts of laws, special or general, in conflict with this act, be and the same are hereby repealed.

Approved Aug. 26, 1909.

No. 196)

AN ACT

(H. 251)

To make it unlawful for persons, firms or corporations buying cotton seed and who own or operate a public gin for ginning cotton to charge one person, firm or corporation more than another for ginning cotton and prescribe a penalty for the same.

Section 1. Be it enacted by the Legislature of Alabama That it shall be unlawful for any person to charge one per-

son more  
than another

person, firm or corporation engaged in buying cotton seed and who also operates or owns a public ginery in this State to charge any other or different price for ginning or ginning and wrapping cotton to any person selling said person, firm or corporation the seed out of his cotton from that price which said person, firm or corporation charges for ginning or ginning and wrapping the cotton of a person, firm or corporation who does not sell said person, firm or corporation the seed out of his cotton.

Violations.

Section 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than one hundred dollars, and may also be sentenced to hard labor for a period of not over six months.

Approved Aug. 26, 1909.

No. 202)

AN ACT

(H. 371

To Amend Section 7083 of the Code of Alabama, of 1907.

Section 7083  
amended.

Violations  
health and  
quarantine  
laws of live  
stock, etc.

Section 1. Be it enacted by the Legislature of Alabama, That section 7083 of the Code of Alabama, of 1907, be, and the same is hereby amended so as to read as follows: 7083. Violations of the health and quarantine laws of live stock, penalty for any person, firm or corporation who shall drive, move, carry or transport or cause to be driven, moved, carried or transported in violation of the quarantine laws of this State, or in violation of the rules or regulations of the State live stock sanitary board, or who shall drive, carry, move, or transport, or cause to be driven, moved carried or transported any live stock into or from any quarantine district, or who brings, or causes to be brought into this state any live stock without being accompanied by a health certificate for the live stock so brought into the State, as provided by law; or who fails and refuses, without just cause and legal excuse, to cleanse and disinfect any infested or infected place in which live stock are kept, when directed or requested by the State

live stock board, the State veterinarian or assistants, so to do, pursuant to the rules and regulations established by said State live stock sanitary board, or who resists or interferes with such board, State veterinarian, or assistants, or State live stock inspector in the execution of his or their duties, or who otherwise violates any of the quarantine laws of this state for live stock, or who fails or refuses without just cause or legal excuse to perform any of the duties required of him by such laws; or who impedes or prevents, or attempts to so impede or prevent the execution of such laws, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment for not less than one month, nor more than six months.

Approved Aug. 26, 1909.

No. 203)

(H. J. R. 91

#### HOUSE JOINT RESOLUTION.

Resolved by the house, the senate concurring, that upon the adjournment of the Legislature the governor be requested to employ a competent person to examine the journals of the house and senate in connection with the clerk of the house and secretary of the senate in order that the journals may show as to all bills passed a compliance with all constitutional requirements. Resolved further that the governor be requested to pay such person so employed out of the contingent fund.

Request for competent person to examine journals of House and Senate.

Approved Aug. 26, 1909.

No. 204)

AN ACT

(H. 369

To allow Confederate soldiers to engage in the business of peddling and hunting in the State of Alabama without payment of license.

Section 1. Be it enacted by the Legislature of Alabama, That all Confederate soldiers in the State of Alabama, shall be entitled to engage in

Confederate soldiers entitled to peddle.

die and hunt  
in State.

the business of peddling in this State without the payment of any license, State, county or municipal and that this law shall go into effect as soon as it is signed by the governor. Provided that no confederate soldier shall be required to pay any license for hunting. Provided that no Confederate soldier under this bill can employ any other person to peddle for him.

Approved Aug. 26, 1909.

No. 209)

AN ACT

(H. 160

To regulate the procedure in the trial of causes wherein lands are sought to be condemned.

Lands con-  
demned.

Be it enacted by the Legislature of Alabama;  
1. That in the trial of all causes wherein lands are sought to be condemned the owner of the land which is sought to be condemned, or which is or will be taken, injured or destroyed shall have the right to open and conclude the argument.

Approved Aug. 26, 1909.

No. 210)

AN ACT

(H. 145

To amend sections 546 and 547 of the Code of 1907.

Section 546  
amended.

Governor  
shall appoint  
examiner.

Be it enacted by the Legislature of Alabama:  
1. That Section 546 of the Code of 1907 be and the same is hereby amended so as to read as follows: The governor is authorized to appoint an expert accountant of known integrity and skill who shall act as examiner of public accounts, and who shall, under the direction of the Governor, whenever required to do so, audit and examine the books, accounts, and vouchers of the secretary of State, the auditor, the treasurer, the superintendent of education, commissioner of agriculture and industries, and the wardens of the penitentiary, or such officer as may have charge of the books, accounts, and vouchers pertaining to the State convicts, their hires and expenses and managements, and also the books, ac-



counts, and vouchers pertaining to the revenue receipts and expenses of the University of Alabama, the Alabama Insane Hospitals, the Alabama Polytechnic Institute, the Alabama Institution for the Deaf, Dumb and Blind, the Alabama Girls Industrial School, and of the several normal schools of the State, and of the several branch agricultural schools of the State, and of any public institution receiving any money from the state treasury. The governor shall direct and control the examiner, and when he deems it necessary, may require him to examine the accounts of any State or county officer charged with the duty of collecting or disbursing any part of the public revenue. The said examiner of public accounts shall receive compensation at the rate of eighteen hundred dollars per annum. The governor may also appoint four assistant examiners of public accounts, who shall each be subject to his direction and each invested with all the power and charged with the duties as herein provided with respect to the examiner of public accounts. The compensation of each of the assistant examiners shall be fixed by the governor at not exceeding Five Dollars per day while actually employed under the direction of the governor as herein provided. And the governor may also allow the examiner and each assistant examiner the additional sum of not more than Two dollars and Fifty cents per day for his expenses while actually employed for the State, his actual railroad expenses paid while traveling to and from the capitol and home to the place and places ordered; and the governor shall prescribe the time for which said examiner and assistant examiners shall be employed. When required by the governor to do so, the examiner or one of the assistant examiners, shall have the money in the State treasury counted, in which the governor shall require either the auditor, secretary of State, or the attorney general, or all of them, to be present to supervise the count and join in certifying the result to the governor. Immediately after the completion of examinations, in which the revenue of any of the several counties is affected, the examiner making such examination shall make out an account, under oath, for

Shall direct  
examiner.

Compensa  
tion.

expenses.

and in the name of the State against such county for approximately the number of days engaged in the examination for such county at the rate of seven dollars and fifty cents per day and for an equitable proportion of the actual railroad fare incurred by the examiners in going to and from such county and file same with the commissioners' court or other court of like jurisdiction of said county, and forward a duplicate thereof to the State auditor. Said commissioners' court or other court of like jurisdiction, shall at its first meeting draw a warrant on the county treasurer of said county in favor of the State, for the amount of such account and forward same to the Auditor, and it shall be the duty of the county treasurer to pay the same. Should any commissioner's court or other court of like jurisdiction fail or refuse to pay any account filed by any examiner under this section, it shall be the duty of the State auditor to deduct said amount from any moneys due said county by the State.

Section 547  
amended.

Commissions.

Refusal of  
clerks, etc., to  
render as-  
sistance.

2. That Section 547 of the Code of 1907 be and is hereby amended so as to read as follows: Commissions shall issue to the examiner and to each of the assistant examiners, vesting in them authority to do and perform the acts mentioned in the last preceding section; and they shall have authority to issue subpoenas for witnesses whom they may have to examine, administer oaths to them, and to compel their attendance, and shall have full authority to require officers whose books and accounts are examined, and their clerks, to render them assistance and to give them information needed in the prosecution of their investigations. Whenever any officer or clerk refuses to render the examiner or either of the assistant examiners assistance, or give them information as required by this section, or any witness fails to attend when summoned, or refuses to testify, the examiner or the assistant examiner, as the case may be, must report the fact forthwith to the supreme court, circuit or city court judge or chancellor, who shall immediately issue a rule to said officer, clerk or witness to show cause why he should not be committed to jail as for contempt. On the day fixed in said rule, if it has been served, the judge or chan-

cellor must examine said officer, clerk or witness, if he appears and unless some lawful reason is shown for such default or refusal, must commit such offending person to jail until he renders the assistance give the information, or testifies as required by law. The examiner or the assistant examiners, as the case may be, shall not have power to describe how books and accounts shall be kept, or to regulate the mode for conducting business in any public office; and whenever the legality of any payment is involved, he shall submit the principals of law involved to the attorney-general for his advice and opinion, and be governed thereby. Said examiners or either of them may investigate and examine the books and accounts of any and all county officials, and registers in chancery whenever directed so to do by the governor, provided, that the books and accounts of the county officials of the several counties of the State must be examined at least once in every two years, and in making such examination, they shall have the powers as are conferred upon them by law in and for the examination of State officers, and the examiner thus employed shall make a report of his findings within ten days after the conclusion thereof to the judge of the circuit court or court having like jurisdiction, who shall call the attention of the grand jury thereto.

Approved Aug. 26, 1909.

No. 212)

AN ACT

(S. 148

To authorize the sale, lease or disposition of an electric light plant, gas plant or water works plant owned by any town or city, or municipal corporation in this State.

Section I. Be it enacted by the Legislature of Alabama, that When any city, town or municipal corporation in this State is or may be the owner of any electric light plant, gas plant or water works plant, and the board of aldermen or other governing body of such city, town or municipal corporation deems it to be to the best interest of such city, town or municipal corpora-

Sale of gas,  
etc., plant au-  
thorized.

tion, and the inhabitants thereof, to sell, lease, or dispose of such electric light plant, gas plant or water works plant, such sale or disposition may be made as in this act, provided.

Shall pass  
resolution.

Minimum  
price.

Special elec-  
tion to be  
ordered.

Publication of  
notice.

Section II. That before any sale, lease or disposition of an electric light plant, gas plant or water works plant of any city, town or municipal corporation shall be made, the board of aldermen or other governing body shall pass a resolution declaring it to be in the judgment of said board of aldermen, or other governing body, to the best interests of the city, town or municipal corporation that the electric plant, gas plant or water works plant of such city, town or municipal corporation shall be sold, leased or disposed of, and to fix in the said resolution the minimum price at which the sale, lease or disposition should be had, and at or after the passage of said resolution, the said board of aldermen or other governing body shall order a special election to be held, at which all the voters in said city, town or municipal corporation, who are qualified voters under the laws of this State, may vote on the proposition of whether such sale, lease or other disposition of such electric plant, gas plant or water works plant shall be authorized. Such election, if ordered by the resolution of the board of aldermen or other governing body of the city, town or municipal corporation shall be called by the mayor of such city, town or municipal corporation to be held on the day fixed by the said resolution of the board of aldermen or other governing body of the city, town or other municipal corporation, which day shall not be less than thirty days from the date of the passage of the said resolution ordering the election, and notice of said election shall be given by advertisement published at least once a week for three consecutive weeks, in one or more newspapers published in the city, town or municipal corporation owning the plant proposed to be sold or disposed of, and if there be no paper so published notices shall be posted at five or more public places in such city, town or municipal corporation, and same shall be published in a newspaper published in the county in which the city, town or municipal corporation

is located. At the election so ordered all qualified voters under the laws of this State resident citizens of such city, town or municipal corporation may vote, and the ballot shall be provided or furnished by the Board of Aldermen or other governing body, and the election shall be conducted in conformity to the laws of this State, except as herein otherwise provided. The managers, clerk and returning officers of the election shall be appointed, and the voting places shall be shall also be designated by said Board of Aldermen or other governing body; the ballots shall have plainly printed on them the words "Shall the electric plant, or gas plant or water works plant (as the case may be) be sold, leased or disposed of," and following said words shall be "Yes" and below that "No," with convenient space for the voter to place a cross mark before the word expressive of his wish. The ballots shall be kept in a sealed box, and at the conclusion of the election the box shall, by the managers be forthwith turned over to the officers designated as "the returning officers, and shall by them be safely and at once delivered to the mayor of such city, town or municipal corporation, and within three days after such election the votes shall be canvassed and counted by the board of aldermen or other governing body of such city, town or municipal corporation, and it shall declare the result. If the result of such election be in favor of a sale, lease or disposition of the plant, the board of aldermen or other governing body of the city, town or municipal corporation may proceed to sell, lease or dispose of the electric light plant, gas plant or water works plant owned by such city, town or municipal corporation at a price not less than the minimum price fixed as aforesaid, and upon such terms and time of payment as to the said board of aldermen or governing body may seem best, but if there be deferred payments the same must be secured by a lien on the plant sold or disposed of. Provided that if there is any bonded indebtedness existing which was incurred in the purchase or construction of such electric plant, gas plant or water works plant which is a lien upon the plant the purchaser shall assume the payment of such bonded indebtedness.

Ballots.

Effective.

Section III. That this act shall be in force from and after its approval by the governor.  
Approved Aug. 26, 1909.

No. 213)

AN ACT

(H. 324

To prescribe the restrictions and conditions under which regular practicing physicians who are retail dealers in drugs may sell pure alcohol for medical purposes only, and prescribe penalties for sales by them of such alcohol for other purposes than as prescribed by this act, and for other violations thereof.

How physicians may dispense alcohol.

Section 1. Be it enacted by the Legislature of Alabama, That regularly authorized and bona fide practicing physicians who are retail dealers in drugs and who operate or carry on a general retail drug business in towns of less than one thousand inhabitants may dispense pure alcohol in the same quantity and under the same regulations, conditions and restrictions and subject to the same penalties as registered or licensed pharmacists, but said physicians conducting such general retail drug business shall not sell or dispense pure alcohol except under the above conditions. A record of all such sales shall be kept by the physician, who shall once every month, if any sales are made therein, file with the probate judge a list or memorandum of all such sales showing the person for whose use the alcohol was sold and the disease or sickness for the alleviation or cure of which the alcohol was necessary, the purpose of this act being to provide a method of obtaining pure alcohol for cases of sickness at places and points within the State remote from regular retail drug stores conducted by registered or licensed pharmacists where such alcohol may be obtained.

File list of sales with probate judge.

Does not alter restrictions of existing law.

Section 2. That nothing in this Act contained is intended to alter the restrictions and regulations of existing law under which regularly licensed and practicing physicians may purchase grain alcohol or pure alcohol for use in com-

pounding and dispensing remedies in the practice of their profession only, but practicing physicians engaged in and conducting a general retail drug business coming within the terms of this act may purchase and keep on hand as much as two gallons of pure alcohol at one time for purpose of sale under the authority of this act.

Section 3. That the list or memorandum required by this act to be filed in the office of the probate judge shall be recorded, and for such record the same fee shall be paid as now prescribed by law for requiring statements or prescriptions concerning alcohol and the sale of wine for sacramental purposes. <sup>Shall be recorded fees.</sup>

Section 4. That any such practicing physician who sells, barter, exchanges, gives away or otherwise disposes of alcohol for any other purpose than is allowed by this act or some other law of the State, shall be guilty of a misdemeanor and shall on conviction, be punished by a fine of not less than fifty nor more than five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months for the first conviction and on the second and every subsequent conviction in addition to the fine which may be imposed, shall be confined at hard labor for the county for not less than three nor more than six months. Any physician who shall fail to file with the probate judge the list or memorandum required in section one of the act shall be guilty of a misdemeanor and on conviction shall be fined the sum of five dollars for each offense. <sup>Violations.</sup>

Section 6. That this act shall take effect thirty days after the approval of the governor. <sup>Effective.</sup>

Approved Aug. 26, 1909.

No. 214)

AN ACT

(H. 182

To encourage a better system of agriculture in this State. Be it enacted by the Legislature of Alabama:

1. That the commissioner of agriculture and industries be required to offer annually prizes to the farmers in each County of this State beginning with the year 1910, as follows, to wit:

To the person raising the best mule colt under six months of age, \$15.00; To the person raising the best horse colt under six months old \$15.00. To the person raising the best acre of corn \$25.00; To the person raising the best acre of wheat, \$15.00; To the person raising the best acre of oats, \$15.00; To the person raising the best acre of sweet or irish potatoes, \$10.00 each; To the person raising the best acre of hay, \$5.00.

2. It shall be the duty of the commissioner of agriculture and industries to provide rules under which the results of the contestants may be declared and awards made.

Payment au-  
thorized.

3. "That the commissioner of agriculture and industries is hereby required and authorized to pay the several prizes enumerated above out of the funds provided for the expense of the agricultural department by sections 52 and 73 of the Code of 1907."

Approved Aug. 26, 1907.

No. 215)

AN ACT

(S. 50

To regulate the right to carry a pistol in this State.

Unlawful to  
carry con-  
cealed pistol.

Does not apply  
to sheriff,  
etc.

Violations.

May give evi-  
dence of good  
reason.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be unlawful for any person to carry a pistol concealed about his person.

Section 2. It shall be unlawful for any person to carry a pistol about his person on premises not his own or under his control, provided this section shall not apply to any sheriff or his deputy or police officer of an incorporated town or city in the lawful discharge of the duties of his office or United States Marshal or their deputies, rural free delivery mail carriers in the discharge of their duties as such or bonded constable in the discharge of their duties as such.

Section 3. Any person violating the provisions of this act must on conviction be fined not less than fifty dollars and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

Section 4. The defendant may give evidence that at the time of carrying the pistol he had good reason to apprehend an attack which the



jury may consider in mitigation of the fine or justification of the offense.

Section 5. In an indictment for a violation of this act, it shall be sufficient to charge that the defendant carried a pistol concealed about his person or on premises not his own or under his control and the excuse if any must be proved by the defendant on the trial, to the satisfaction of the jury.

Sufficient to charge defendant carried pistol.  
Excuse must be proved.

Section 6. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Conflicting laws repealed.

Approved Aug. 26, 1909.

No. 217.)

AN ACT

(S. 7.

To authorize and empower the commissioners court, board of revenue, or other court or county officers of similar or like jurisdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools established under the act of the Legislature approved August 7, 1907, and to ratify and confirm all appropriations heretofore made for such purposes and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of Alabama, That on and after the approval of this act by the governor it shall be lawful for the commissioners court, board of revenue, or other court or officers of the county of similar or like jurisdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools, established in the several counties of the State under an act of the Legislature entitled an act "to provide for the establishment of high schools in this State, and to make appropriations for said schools," approved August 7th, 1907, such donations or appropriations to be applied to the benefits of said schools

Lawful to appropriate funds to aid in construction, etc. of county high schools.

Appropriations ratified and confirmed.

Not a defense to any pending suit.

under the supervision and control of the county board of education, and not otherwise. That appropriations heretofore made from county funds by the courts of county commissioners or the courts or boards of revenue of the several counties of this State used or to be used in the construction or maintenance of such schools are hereby ratified and confirmed, provided that the provisions of this act shall not effect suits heretofore filed to test the legality of appropriations made by courts of county commissioners or boards of revenue to aid in the construction of county high schools; provided further, that the appropriations being tested by such pending suits are hereby ratified and confirmed, and this act shall not be set up as a defense to any such pending suit.

Approved Aug. 26, 1909.

No. 218.)

AN ACT

(H. 226.

To amend sections 161, 162, 163, and 164 of an act entitled an act to provide for the organization, incorporation, government, and regulation of cities and towns and to define the rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof, and to prescribe penalties for violations of the provisions of this act, approved August 13, 1907.

Section 161 amended.

Duty of boards of health.

Section 1. Be it enacted by the Legislature of Alabama, That section 161 of an act entitled an act to provide for the organization, incorporation, government, and regulation of cities and towns, and to define the rights, powers, duties, jurisdiction, and authority of such cities and towns and of the officers thereof, and to prescribe penalties for violations of the provisions of this act, approved August 13, 1907, be amended so as to read as follows: Section 161. It shall be the duty of the boards of health of the several counties of the State to supervise the administration of the health and quarantine laws of the State in the various incorporated cities and towns of their respective counties, and

also to supervise the administration of such health ordinances as may be legally adopted by such incorporated cities and towns.

Sec. 2. That section 162 of said act shall be amended so as to read as follows: Section 162. Incorporated cities and towns shall have the right to establish and maintain laboratories, chemical, bacteriological or of the other kind for investigation of the purity of foods, drugs, and public water supplies, and for the study of the nature, causes, propagation, and prevention of diseases provided that the control and management of such laboratories, and the appointment of all persons employed to conduct, or to aid in conducting said laboratories, shall be under the jurisdiction of their municipal health officers, respectively, subject to the approval of the county boards of health of the counties in which said laboratories may be established.

Section 3. That section 163 of said act shall be amended so as to read as follows: Section 163. The health officer of an incorporated city or town shall perform all duties that devolve upon him under the health and quarantine laws of the State, and also all duties that devolve upon him under such health ordinances as may be legally adopted by the authorities of the municipality. Should the health officer fail to discharge said duties it shall be the right and the duty of the county board of health to remove him from office and to promptly elect a successor. It shall also be the right of the mayor of a municipality to remove a municipal health officer for good cause, and when such right is exercised the mayor shall appoint a health officer pro tempore, provided that such health officer is a member of the county board of health. When the mayor removes a municipal health officer, he shall notify in writing the president or secretary of the county board of health of his action, and shall assign his reasons therefor. When a county board of health has been notified of the removal of a municipal health officer, together with the reasons therefor, the said board of health shall promptly and thoroughly investigate the alleged reasons. When such investigation has been completed it shall be the duty of the county board of health to elect a successor to the municipal health officer.

Section 162 amended.

Right to establish laboratories, etc.

Section 163 amended.

Duties of health officer.

Removal for failure.

Duty of mayor when municipal health officer removed.

County board of health shall investigate reasons.

Successor.	cer removed by the mayor provided that such removed health officer may be deemed eligible to succeed himself if the investigation shows him
May succeed himself.	not to have been guilty of such dereliction of duty as to disqualify him for succeeding himself.
Section 164 amended.	Sec. 4. That section 164 of said act shall be amended so as to read as follows: Section 164. The council of any incorporated city or town shall have the right to create the position of as-
Assistant health officer.	stant city health officer, one or more, and when created the city health officer shall have the right to nominate the incumbent or incumbents there-
Duties of as-	of, subject to the approval of the county board of health. Such assistant health officer, or officers,
sistant.	shall perform such duties and exercise such power and authority as may be prescribed for, or assigned to him, or them, by the city health officer,
	of, subject to the approval of the county board of health, provided that no duties shall be pre-
Salary.	scribed, or power and authority conferred in violation of the health laws of the State, or of the health ordinances of the city. The salary of the city or town health officer and that of any as-
	stant health officer, or officers, that may be appointed in accordance with this section, shall be fixed by the council of the city or town.
	Approved Aug. 25, 1909.

No. 219.) AN ACT (S. 9.

To provide a fund for the compensation and expenses of the assistant bank examiners.

Section 1. Be it enacted by the Legislature of Alabama, That the bank examiner and assistant bank examiners, shall, after making an examination, general or special of any bank or branch bank, certify to the State treasurer that such examination has been made, whereupon the State treasurer shall collect from the bank or branch bank examined, a fee for such examination in accordance with the following schedule, which shall be a maximum fee, and shall not be collected more than twice in one year from any bank, except in case of special examinations ordered by the State treasurer under section 3552 of the Code.

Treasurer shall collect fee for examination of banks.

Section 2. That the fees for such examinations shall be as follows: (1) For the examination of banks having a capital of less than \$15,000 and for the examination of each branch bank a fee of \$5.00. (2) For the examination of banks having a capital of \$15,000 and less than \$25,000 a fee of \$7.50. (3) For the examination of banks having a capital of \$25,000 and less than \$50,000 a fee of \$10.00. (4) For the examination of banks having a capital of \$50,000 and less than \$100,000 a fee of \$12.50. (5) For the examination of banks having a capital of \$100,000 and less than \$150,000 a fee of \$15.00. (6) For the examination of banks having a capital of \$150,000 and less than \$250,000 a fee of \$17.50. (7) For the examination of banks having a capital of \$250,000 and less than \$350,000 a fee of \$20.00. (8) For the examination of banks having a capital of \$350,000 or over a fee of \$25.00.

Section 3. That the State treasurer shall embody in his report an annual statement of all fees collected under this act. Schedule or fees in annual report.

Section 4. That should any bank fail to remit the amount of such fee to the State treasurer within ten days after being called on such fee shall be subject to collection by the State in the manner provided by law for collection of money due the State. Subject to collection by State.

Section 5. The fees paid into the treasury under the provisions of this act shall constitute a separate fund to be used solely to pay the salaries and expenses of the assistant bank examiners. Separate fund.

Section 6. That within the maximum amounts fixed in section 2 of this act, the State treasurer shall have authority at the end of each six months to decrease or increase pro rata the fees assessed against banks examined, the intention of this act being that no larger fees shall be assessed against the banks than may be necessary to pay the salaries and expenses of the assistant bank examiners. May decrease or increase fees.

Approved Aug. 26, 1909.

No. 220)

AN ACT

(S. 79

To provide for the appointment of an official stenographer for each of the circuit courts and

courts of like jurisdiction for which a stenographer is not now provided by law of the State of Alabama; to prescribe his duties; to fix his compensation and to provide for the payment of the same.

Appoint-  
ment of steno-  
graphers.

Qualifica-  
tions.

Term of office.

Removal.

Judge shall  
certify ap-  
pointment.

Oath.

Section 1. Be it enacted by the Legislature of Alabama, That the judges of each of the circuit courts of the State of Alabama are hereby authorized and directed to appoint a competent shorthand writer to perform the duties of official stenographer of their several courts, and courts of like jurisdiction within the circuit not otherwise provided with an official stenographer who is able to take shorthand notes at the rate of 140 words per minute for five consecutive minutes; and clearly read and transcribe the same. Said stenographer shall be an officer of the court and shall hold office for the term of the judge appointing him; provided, that the judge of said court shall, at any time, have power to remove such official stenographer upon proper charges filed in writing and entered of record duly sworn to, for incompetency, neglect of duty, insubordination, or misconduct, if, after hearing such charges and such proof as may be offered in support thereof and against the same, it shall appear that such charges are well founded and satisfactorily proven.

Section 2. That such judge of the circuit court making the appointment of such official stenographer shall certify the appointment together with a copy of the oath of office taken by such stenographer, to the clerks of the circuit courts of the counties in the circuit, and such certificate shall be entered of record by such clerks.

Section 3. That said official stenographer before entering upon the discharge of his duties shall subscribe to the following oath: State of Alabama, \_\_\_\_ County: I \_\_\_\_\_ do solemnly swear that I will well and truly report all matters which it shall become my duty to report as the official stenographer of the \_\_\_\_\_ judicial circuit of the State of Alabama, and will perform all such duties as are incumbent upon me as such official stenographer, faithfully and impartially, to the best of my ability, so help me God.

Section 4 . It shall be the duty of such official stenographer to attend the sessions of the courts of the circuit of which he is stenographer in person, or when he is providentially hindered, provide a competent assistant appointed by him by and with the advice and consent of the presiding judge, and to take full stenographic notes of the oral evidence and proceedings, except arguments of counsel, in every case in such courts as the presiding judge shall direct or any party thereto may request, to be reported, and must also note the order in which all written or documentay evidence is introduced, all objections and the ruling of the court thereon and exceptions which may be reserved thereto. The original notes taken by such stenographer shall be filed with the clerk of said court where the same are taken and shall be treated and preserved as a part of the records of said court. He shall when directed by the presiding judge, attend the grand jury in its investigations and shall take notes of the evidence before said grand jury in such cases as he may be directed and said notes shall be filed with the clerk of said court where taken. He shall furnish within thirty days, to any party to a cause reportetd by him demanding the same in writing, a typewritten transcript of his notes, or any part thereof, upon payment of a transcript fee of five cents for each hundred words thereof, and for each additional copy to be made at the same time two and one half cents for each hundred words thereof; provided, that nothing herein contained shall affect any special agreement made to furnish such transcript within less than thirty days after demand for same. That in all cases where so directed by the presiding judge, such official stenographer shall furnish one typewritten copy of such transcript within thirty days after written demand therefor, to be filed with the clerk of said court, free of charge. Said stenographer shall at all times when not in attendance upon the circuit court serve in any other court of like jurisdiction within the circuit under the same rules and conditions governing him in the circuit court and shall be subject at all times to the order of the judges of the court in which he is engaged.

Duties of official stenographer.

Fee taxed as  
costs.

Section 5. That in all cases reported by the official stenographer or his assistant, there shall be taxed as a part of the costs of the case a fee of \$3.00, to be collected as other costs, and when such fee is collected it shall be paid by the clerk into the county treasury of said county in which such case is tried and reported.

Salary.

Section 6. That said official stenographer shall receive a salary of \$1,200.00 per annum, payable in quarterly installments by the county or counties composing the circuit, each county where more than one county is included in the circuit to pay its pro rata of such salary based upon the number of weeks that the said stenographer is in attendance upon the courts held in such county, the amount thus due by each county to be certified by the judge of the circuit to the probate judge of each county. The county commissioners or board of revenue or other governing body of the county discharging the duties of county commissioners of such counties are hereby directed and required to provide for the payment of such salary in quarterly installments.

Transcript to  
be certified to.

Section 7. That all transcripts furnished by said official stenographer shall be certified to by him over his signature, and when so certified, such transcript shall be prima facie evidence of the proceedings in said cause, and said official stenographer must file such official transcript within thirty days after written demand is made unless such time is extended by the judge for good cause shown.

Time of filing.

Section 8. That nothing in this act shall operate to repeal any of the local or special acts of the general assembly or Legislature of Alabama providing for stenographers for any court or courts of the State, or any local act passed at this session of the Legislature, but all such acts shall continue in force and effect and in concurrence herewith.

Section 9. No county having a stenographer who is by law required to serve in the circuit court shall be liable for any part of such compensation of such stenographer but the same shall be prorated among the other counties composing such circuit.

Approved Aug. 26, 1909.



No. 221)

AN ACT

(S. 3

To amend section 4559 of the Code of Alabama, 1907.

Section 1. Be it enacted by the Legislature of Alabama, that section 4559 of the Code of 1907, be amended so as to read as follows: 4559. Legal organization and deposit of securities must be shown to and approved by commissioner. The insurance company shall satisfy the insurance commissioner that it is fully and legally organized under the laws of its State or government to do the business it proposes to transact; that, if a life insurance company, it has on deposit with the treasurer of the State, or with the proper officer of some other State, securities to the actual cash value of at least one hundred thousand dollars, consisting of State bonds, United States bonds, or notes secured by mortgages on real estate for double the amount; all of which securities shall be subject to the approval of the insurance commissioner, the attorney general and the governor of this State; and such companies shall file with the insurance commissioner the certificate of the official with whom the securities are deposited, stating the name and amount of each of said bonds, notes, or mortgages and that he is satisfied they are worth at least one hundred thousand dollars, and that the deposit is made with him by the company for the protection of all policy holders and creditors in the United States; that, if an insurance company other than life, it has an actual paid-up cash capital of not less than one hundred thousand dollars of which at least fifty thousand dollars shall be invested in State bonds or United States bonds or notes secured by mortgages on real estate for double the amount to be certified as worth at least fifty thousand dollars by the insurance commissioner of the State in which said company is organized, reckoning the same at their current market value; or in lieu of a cash capital stock such company shall have and maintain a surplus above all liabilities, including reinsurance reserve of not less than one hundred thousand dollars.

Section 455 amended.

Organization and deposit of securities.

Life Ins. Co. deposit with treasurer.

Securities subject to approval of commissioner.

Deposit for protection of policy holders.

Ins. Co., other than life.

Approved August 26, 1909.

To regulate the packing and sale or other disposition of feed stuffs.

Feed stuffs sold except in certain quantities, misdemeanor.

Section 1. Be it enacted by the Legislature of Alabama, That any manufacturer, merchant, dealer, vendor or other person who sells, offers for sale or keeps in stock with intent to sell, any corn, oats, rye, wheat, barley or mill products such as middlings, bran, chops, corn hearts and all other ground feed products in sacks or bags, and cotton seed meal and cotton seed hulls, except in quantities hereinafter respectively prescribed, shall be guilty of a misdemeanor.

Feed stuffs, how sold, quantities.

Section 2. Oats shall be sold in sacks containing four and one half bushels and five bushels, weighing, respectively one hundred and forty four pounds and one hundred and sixty pounds; rye and corn in two, two and one half, and three bushel sacks, weighing respectively one hundred and twelve, one hundred and forty and one hundred and sixty-eight pounds; wheat in two, two and one half and three bushel sacks, weighing respectively one hundred and twenty, one hundred and fifty and one hundred and eighty pounds; barley in two, two and one-half and three bushel sacks, weighing respectively ninety-six, one hundred and twenty and one hundred and forty-four pounds; mill products such as middlings, bran, shops, corn hearts and all other ground feed products, in sacks or bags weighing one hundred and one hundred and seventy-five pounds each, except cotton seed hulls which shall be in eighty pounds and one hundred pounds sacks or bags; grits shall be sold only in barrels of one hundred and ninety-six pounds or sacks weighing ninety-six pounds, except grits packed in paper cartons of not more than five pounds.

May sell in bulk.

Section 3. The foregoing provisions shall apply only when said articles are sold in sacks, bags or other packages, and shall not prevent the sale of any of said articles in bulk.

Does not apply to grower, or resale by purchaser.

Section 4. But the provisions of this act shall not apply to sales of grain or cereals by the producer or grower of such grains or cereals or resale of same by the purchaser or to mill products

shipped by manufacturers to dealers for mixing purposes .

Section 5. It shall be unlawful to sell any of <sup>Packages</sup> said grains in such sacks, bags or packages, un- <sup>must be plain-</sup> less in large figures thereon is plainly marked <sup>ly marked,</sup> or stenciled the number of bushels or pounds and <sup>showing num-</sup> in the case of the mill products, it shall be unlaw- <sup>ber of pounds</sup> ful to falsely brand any of said sacks, bags or packages as to the true weight of the same. <sup>or bushels.</sup>

Section 6. Any person, firm or corporation <sup>Penalty.</sup> violating any of the provisions of this act shall be fined not more than one hundred dollars for the first offense, but on the second conviction shall be fined not less than one hundred nor more than five hundred dollars.

Section 7. The provisions of this act shall <sup>Effective.</sup> take effect on the first day of January, 1910.

Approved August 26, 1909.

No. 225)

AN ACT

(H. 259

To provide for and regulate the manufacture, sale and inspection of mixed feed stuffs in Alabama, and to provide penalties for violations of this act.

Section 1. Be it enacted by the Legislature of Alabama, That every lot or parcel of mixed feed <sup>Mixed feed</sup> stuffs intended for use in feeding domestic ani- <sup>stuffs.</sup> mals or poultry, manufactured, sold, offered or exposed for sale within this State, shall have printed on the bag or other package containing it or affixed thereto, in a conspicuous place on the outside thereof, a legibly and plainly printed statement clearly and truly certifying the number of net pounds of feeding stuff contained therein; provided that all mixed feed stuffs shall be packed in bags or packages containing fifty pounds net weight, or one hundred pounds net weight, or one hundred and seventy-five pounds net weight or two hundred pounds net weight; also stating the name, brand, or trade mark un- <sup>Packages;</sup> der which the article is sold, and the name and <sup>statement as</sup> the address of the manufacturer, importer or <sup>to weight,</sup> jobber of the article; and further stating the <sup>etc.</sup> true name of each of the ingredients entering <sup>Name, brand,</sup> <sup>etc.</sup>

Protein and  
crude fat.

Nitrogen.

How determ-  
ined.

Must con-  
tain 13 1-2%  
crude pro-  
tein fat.

Registered  
with Com. Agr.

Change in  
name, analysis,  
etc.

Cotton seed  
meal and  
hulls.

Mixtures that  
may be in-  
cluded in  
"mixed feed  
stuffs."

into the composition of mixed feed stuffs, and a statement of the minimum percentage that it is guaranteed to contain of crude protein and crude fat added together, and the maximum percentage of crude fibre guaranteed; allowing one per cent of nitrogen to equal six and one-fourth per cent of protein; all three constituents to be determined by the methods in use at the time by the association of official agricultural chemists of the United States; and provided further that no mixed feed stuffs shall be sold, offered or exposed for sale within this State which does not contain at least thirteen and one-half per cent of crude protein and crude fat added together, or which contains more than twelve per cent of crude fibre. Each and every mixed feed stuff coming within the provisions of this act, shall be registered with the commissioner of agriculture and industries, upon blanks furnished by said commissioner, before the same shall be sold, offered or exposed for sale within this State; provided that if any change be made in the name, brand or trade mark of the article, or in the guaranteed article, or in the guaranteed analysis thereof, or in the ingredients entering into its composition, after said registration, immediate notice of such change or changes shall be given to the said commissioner. Provided nothing in this act shall prevent the sale of cattle feed whose base is cotton seed meal and hulls.

Section 2. The term "mixed feed stuffs" as herein used shall include mixtures containing linseed meals, corn meal, gluten feeds, germ feeds, rice meal, peanut meal, corn feeds, hominy feeds, starch feeds, sugar feeds, dried brewer's grain, malt sprouts, dried distiller's grain, corn and oat feeds, corn bran, wheat bran, rice bran containing not over twelve per cent fibre, wheat middlings, wheat shorts, ground beef, clover meal, alfalfa meal, pea vine meal, cotton seed products, whole seeds and grains and meals mixed or unmixed, made from such seeds or grains. The term "mixed feed stuffs" shall also include any food, food product or commodity, intended to be fed to animals or poultry, composed of two or more grains, cereals or articles named above, and in which no one grain, cereal or article ex-

ists or is present to the extent of ninety-five per cent or more, that is to say, if one of the distinct component parts constitutes ninetyfive per cent or more, of the whole, it is not a mixed feed stuff, otherwise it is a mixed feed stuff under the provisions of this act.

Section 3. Mixed feed stuffs under this act shall not include corn cob meal, cocoanut hull meal, rice polish, rice hulls, peanut hulls, or fish scrap or beet fibre, and the use of these is prohibited from any mixtures of feed stuffs offered for sale or sold in this State. Prohibited mixtures.

Section 4. Each and every manufacturer, im-Name or trade porter, jobber, agent or seller, before selling, mark to be offering or exposing for sale in this State, any filed with com- mixed feed stuff, as defined in section 2 of this missioner of agriculture; act, shall for each and every mixed feed stuff fee for reg- bearing a distinguishing name or trade mark, file istering. with the commissioner of agriculture and industries the said brand, name or trade-mark, and the same must be registered with the commissioner of agriculture and industries when the said application is accompanied by a fee of one dollar, and shall file with the commissioner of agriculture and industries a copy of the statement named in section 1 of this act, and accompanying said statement by a sealed glass jar or bottle, containing at least two pounds of the mixed feed stuff to be sold, exposed or offered for sale, which sample shall correspond to the mixed feed stuff which it represents in the percentage of protein, fat and fibre which it contains, together with a statement showing the component parts.

Section 6. The commissioner of agriculture and industries prior to the time that this act shall become effective and by the first day of January of each year hereafter, and at such other time as may be necessary, shall make written requisition upon the auditor for the estimated number of tags or stamps hereinafter provided for, required to supply the demand therefor during the year for which such requisition is made. Tags supplied by auditor.

Section 7. Upon the receipt of such requisition the auditor must have printed a sufficient number of tags and stamps of suitable material, with proper fastenings on the tags for attaching Auditor to have tags made and printed.

Commissioner to report to Auditor monthly.

Tags to be destroyed at end of each year.

Commissioner liable for stamp.

Commissioner may refuse

the same to packages, or bags of mixed feed stuff, and the stamps so prepared with mucilage or paste to be affixed to said packages or bags of mixed feed stuff, or to the tags or labels which may be attached to such packages or bags of mixed feed stuff; and there shall be printed on said tags and stamps the word "guaranteed" with the year in which the tags or stamps are to be used, and a fac simile signature of the auditor and commissioner, and there shall be also printed thereon the words, "Alabama Mixed Feed Tag Tax,  $\frac{1}{2}$  cent," "Alabama Mixed Feed Tag Tax,  $\frac{3}{4}$  cent," and "Alabama Mixed Feed Tag Tax, 1 cent" respectively, it being intended that the said tags and stamps shall be used in three denominations, namely, one-half cent, three-fourths cent and one cent, and the auditor is authorized to use either tags or stamps, or both, and to prescribe the general form and design of the same; he shall as soon as practicable deliver such tags or stamps to the commissioner at the capitol, taking his receipt therefor, and crediting him with all legally accounted for at the same price. The commissioner must report to the auditor at the end of each month the number of tags sold during the month and all proper debits and credits shall be made for and against said commissioner on account of said tags and stamps, according to the rules prescribed by the auditor for keeping the said account.

Section 8. All tags and stamps remaining in the hands of the commissioner at the end of the year must be destroyed in the presence of the treasurer, secretary of State and attorney general and a certificate of these officers showing the number of tags and stamps so destroyed, and the year for which they were intended, entitles the commissioner to credit therefor on his account with the auditor at the face value of the tags and stamps so destroyed.

Section 9. The commissioner and the sureties on his official bond are liable to the State for all such tags and stamps not legally accounted for at their face value.

Section 10. The commissioner of agriculture and industries shall have the power to refuse the registration of any mixed feed stuff under a

name which would be misleading as to the materials of which it is made up, or when the percentage of crude fibre is above, or the percentage of fat and protein below, the standard provided for by this act. Should such materials as referred to above be registered, and it is afterwards discovered that they are in violation of the above provisions, the commissioner of agriculture and industries shall have the power to cancel the registration, and notify the manufacturer, importer or jobber interested. Any manufacturer, importer, jobber, agent or seller, who shall sell, offer or expose for sale or distribution in this State any mixed feed stuffs, as defined in section 2 of this act, without complying with the requirements of the preceding sections of this act, or who shall sell or offer for sale or expose for sale or distribution, any mixed feed stuffs, which contain substantially a smaller percentage of constituents than are certified on the tag, stamp, bag or package in which the same is contained, or who shall adulterate any mixed feed stuff with foreign, mineral or other substances, such as rice hulls, rice chaff, peanut shells, ground, corn cobs ground, beet fibre, ground oat hulls, or other similar materials of little or no value, or with damaged or moldy or rotten corn, or other grain or substance injurious to the health of domestic animals and poultry, except in case of damaged or moldy feed when not sold with personal inspection, written notice being given the purchaser, shall be guilty of a violation of the provisions of this act, and be fined not less than ten dollars nor more than twenty-five dollars, and may be imprisoned not exceeding six months for each subsequent offense, or fined not less than fifty dollars nor more than one hundred dollars. Provided, that nothing in this section shall prevent the sale of mixed feed stuff within this State, containing ground oat hulls and oat materials, which conforms to the standard of section 1 of this act.

registration  
of misleading  
name.

May cancel  
registration.

Written notice  
required  
on sale of  
damaged food.

Penalty for vi-  
olations.

Section 11. The commissioner of agriculture and industries or the municipal or county inspectors where appointed or elected are hereby authorized to have collected a sample, not exceeding two pounds in weight for analysis, with-

To collect sam-  
ples.

Analyzed by  
State chemist.

out notice to manufacturer, importer or jobber, at his discretion or on request of any buyer of such feed stuff, from any lot, parcel or package of mixed feed stuffs, as defined in section 2 of this act, which may be in the possession of any feeder, dealer, agent, jobber, importer, mixer or manufacturer, said samples to be taken from not less than ten per cent of the whole lot inspected, and the analysis carefully made by the State chemist to see that the goods are being kept up to standard certified.

Penalty for  
impeding in-  
spector.

Section 12. Any manufacturer, mixer, importer, dealer, or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent the county inspectors, municipal inspectors or other person or persons, acting by authority of and under instructions from the commissioner of agriculture of the State, in the performance of his duty in collecting samples, or otherwise in connection with this act, shall be guilty of a misdemeanor, and shall upon conviction be fined not less than ten dollars nor more than fifty dollars.

Penalty.

Section 14. Any violation of the provisions of this act shall be punishable by fine not to exceed one hundred dollars, or fine and imprisonment, not to exceed six months, except as herein otherwise provided.

Medicinal  
preparation  
excepted.

Section 14½. Towit, provided that patent medicinal preparations, recommended solely for curative or medicinal properties be excepted from the operation of this act and that this act be in full force and effect on and after December 31st, 1909. Provided further, that no provision of this act shall prohibit an interstate shipper from printing on the bag, package or tag on mixed feed sold in Alabama any additional matter, to that herein specified, necessary to conform to national law, which does not annul or minimize the enacting clauses set out in sections one, two, three and ten of this act; provided further that mixed feed formulas patented under United States laws are excepted from the operation of this act, other than, that they be required to file certified copy of same with the commissioner of agriculture and industries of the State of Alabama.

Interstate  
shipments.



Section 15. That all laws and parts of laws <sup>Repeal.</sup> in conflict herewith be, and the same are hereby repealed.

Approved August 26, 1909.

No. 68) AN ACT (H. 345

To authorize the tax collectors of the State to pay over funds collected by them under special, general or local laws which have been repealed, or the levy declared null and void.

Section 1. Be it enacted by the Legislature of Alabama, That any tax collector of the State, <sup>Taxes to be paid into Co. Treasury except any paid under protest.</sup> who has collected any special taxes under any provision of a general, special or local law, which has been repealed or declared null and void by any court of record in this State, shall pay all such funds into the county treasury of their respective counties, and the receipt of the treasurer shall be his valid voucher for all such sums so paid. Provided, that if any such funds have been paid under protest and are in litigation, the collector shall hold such funds subject to the judgment of the court in such litigation.

Section 2. That all such funds paid into the <sup>To be under control Co. commissioners.</sup> county treasury shall be under the control of the court of county commissioners or boards of revenue of the counties in which said tax is paid and collected. Provided, that said courts shall use said funds for the particular purpose for <sup>Final disposition.</sup> which it was levied, if possible; if it cannot be so used, then it shall become a part of the general fund of the county and disbursed accordingly.

Approved August 25, 1909.

No. 84) AN ACT (H. 28

To amend section 632 of the Code of Alabama.

Be it enacted by the Legislature of Alabama, That section 632 of the Code be and the same is hereby amended so as to read as follows: 632. Must record paid and cancelled coupons. The

Duty of examiner accounts and State treasurer to destroy interest coupons, after proper record.

State treasurer must enter, in suitable books kept for that purpose, a record of all paid and cancelled coupons of the coupon bonds of the several classes of coupon bonds issued by the State, and all the coupon bonds which the State may hereafter issue, such record to be made as soon as practicable after such payment and cancellation; and it shall be the duty of the examiner of public accounts from time to time to examine the cancelled coupons paid for interest on such bonds and to compare such coupons with the record made thereof, as required by this section, and with the interest ledger kept by the State treasurer; and immediately after such examination it shall be the duty of the State treasurer to make a note or record in a book to be kept for that purpose describing the total amount of such coupons so covered by such examination, and it shall then be the duty of the State treasurer and the examiner of public accounts to destroy such coupons by fire, and the State examiner shall certify to the fact of the destruction of such coupons, on the aforesaid record required to be kept by this section.

Approved August 25, 1909.

No. 97)

AN ACT

(H. 277

To provide for the protection of secret order, societies or fraternities. Be it enacted by the Legislature of Alabama,

Who entitled to wear secret order badges.

1. That any person who shall wear any badge, emblem or insignia of or pertaining to the order of Ancient Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias, Red Men, or any other secret society, order or fraternity, chartered under the laws of the State of Alabama or of any other State, or shall use the same to obtain aid or assistance within this State, unless he shall be entitled to wear or use the same under the constitution, by-laws, rules and regulations of any one of such secret order, societies, or fraternities, as the case may be, shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding ten dollars, and may

Penalty.

also be imprisoned in the county jail not exceeding ten days.

2. That justices of the peace and courts of Jurisdiction. like jurisdiction shall have authority to try such cases.

3. This act shall not be construed as prohibit- Exceptions. ing the wives, daughters, mothers or sisters of the members of said secret order, societies or fraternities from wearing such badges, emblems or insignia.

Approved August 25, 1909.

No. 110)

AN ACT

(H. 359

To amend section 373 of the Code of Alabama, 1907.

Section 1. Be it enacted by the Legislature of Alabama, That section 373 of the Code of Ala- Ballots; how bama, 1907, be amended so as to read as follows: printed. The ballots printed in accordance with the provisions of this chapter shall contain the names of all candidates nominated by caucus, convention, mass meeting, primary election, or other assembly of any political party or faction, or by petition of electors and certified as provided in the preceding sections, but the name of no person shall be printed upon the ballots who may, not less than twenty days before the election, notify the judge of probate in writing, acknowledged before an officer authorized by law to take acknowledgments, that he will not accept the nomination specified in the certificate of nomination or petition of electors; provided that the name of each candidate shall appear but one time on said ballot, and under only one emblem.

Approved August 25, 1909.

No. 140)

AN ACT

(H. 338

To amend section 586 of the Code of 1907. Be it enacted by the Legislature of Alabama:

Section 1. That section 586 of the Code of 1907 be amended so as to read as follows: Secretary of State distributes acts and resolutions.

Secretary of  
State distrib-  
utes acts and  
resolutions.

—The secretary of State must retain for the use of the executive offices, and the two houses of the Legislature, one hundred and fifty copies of both volumes of the acts and resolutions of each session, and transmit to the department of State of the United States two copies of each volume, and deliver to the librarian of the supreme court of the State of Alabama two copies of the general laws of each session of the Legislature for each State and territory in the Union to be by the said librarian forwarded to the librarian of such States and territories with the request that the librarian forward to the librarian of this State the same number of copies of the laws of said State or territory; and distribute to the governor, secretary of State, State treasurer, State auditor, attorney general, superintendent of education, commissioner of agriculture and industries, examiner of public accounts, State health officer, adjutant general, president of the convict bureau, president of the railroad commission, State game and fish commissioner, department of archives and history, State tax commissioner, clerk of the supreme court, secretary of the senate, and clerk of the house of representatives, one copy of each volume, and to the president of the University of Alabama, for the law department, two copies of each volume; to each chancellor, judge of the supreme, circuit, or city court, solicitor, United States district judge, and United States district attorney in this State, one copy of each volume; four copies of each volume to the supreme court library, and one copy of each to the department of justice of the United States, and to the United States circuit court of appeals for the fifth circuit; also two copies of each volume to the librarian of congress at Washington for the purpose of copyright; and one copy of each volume to the Alabama Girls' Industrial School, each normal school in the State, the Alabama Polytechnic Institute, and to each district agricultural school in the State.

Approved August 25, 1909.

No. 142)

AN ACT

(H. 232)

To stipulate how the service of process may be effected upon certain unincorporated organizations or associations. Be it enacted by the Legislature of Alabama as follows:

Section 1. All unincorporated organizations or associations of every kind that issue policies or certificates of insurance of any kind to their members shall be suable in any county where they do business or issue such policies or certificates, and the summons may be executed upon them by serving a copy of the summon and complaint upon any officer of such organization or association.

Service in  
incorporated  
organization.

Approved August 25, 1909.

No. 144)

AN ACT

(S. 55)

To amend section 5765 of the Code of Alabama of 1907.

Be it enacted by the Legislature of Alabama, That section 5765 of the Code of Alabama be amended so that the same shall read as follows: 5765.—Superintendence of roads by county commissioners.—The courts of county commissioners of the several counties are invested with a general superintendence of the public roads within their respective counties, and may establish new and change and discontinue old roads in the manner hereinafter provided, and shall improve and maintain the public roads, bridges and ferries of their respective counties so as to render travel over the same as safe and convenient as practicable. To this end they are given legislative, judicial and executive powers; they may levy a special tax not exceeding one fourth of one percentum to build such roads and bridges, or either, or to repair the same, when in the opinion of such court the public good requires it. They may establish, promulgate and enforce new rules, regulations and laws not inconsistent with the general and special laws of this State, which are necessary to make, improve and maintain a good system of public roads, bridges and ferries,

Superintend-  
ence of roads  
by county  
commission-  
ers.

in their respective counties, and regulate the use thereof.

Approved August 25, 1909.

No. 152)

AN ACT

(H. 285

For the preservation and protection of the public oyster reefs and beds in the waters of Alabama; to provide for the establishment of a board of oyster commissioners, to prescribe their duties, and provide for their compensation; to regulate the manner of taking and catching oysters on such public reefs and private bedding grounds, and to prescribe the measure of oysters in the shell; to prescribe license fees for boats engaged in taking and catching oysters; to fix and prescribe a tax upon oysters canned and packed in this State; to provide for the protection and patrol of oyster grounds, and to provide for the leasing of water bottoms owned by the State; to fix penalties for the violation of any of the provisions of this act; and to create the oyster protection fund from moneys arising under the provisions of this act, for the purpose of defraying the expenses of the oyster commission, and generally to regulate and control the oyster industry and matters connected therewith.

Board of oyster commissioners created; term of office; vacancies, how filled.

Section 1. *Board of Oyster Commission Created.*—Be it enacted by the Legislature of Alabama, That there shall be a board of oyster commissioners created which board shall consist of three members, two from the qualified voters of Mobile county and one from the qualified voters of Baldwin county; none of which Commissioners shall be interested in any way in any branch of the oyster industry, but all of whom shall be familiar with all branches of the oyster industry. These commissioners shall be appointed by the governor as soon as practicable after the approval of this act. One commissioner shall be appointed for a term of two years; one for a term of three years, and one for a term of four years, and

at the expiration of said term or terms of office, such vacancy, or vacancies, shall be filled by appointment by the governor. Each member of the board of oyster commissioners shall hold office during his term and until his successor in office is appointed and qualified.

Section 2. *Duties and Powers of the Oyster Commission.*—That the said commission shall have the authority to sue and be sued under the style of the oyster commission of Alabama, and all process against the said commission shall be served on the president or secretary of the said commission, and all suits in its behalf shall be brought by the president. The said commission shall have and keep copies of all its by-laws, papers and other records and copies of any proceedings, bylaws, papers or other records shall, when certified by the secretary of the commission under its corporate seal, be received in all courts as prima facie evidence of the acts, documents, records, proceedings and by-laws of the said commission. Said commission shall adopt by-laws for its own government and for the government of its employees. Any person, in interest, who should be aggrieved by any such by-laws, acts, leases or proceedings, shall have the right to test the legality, justness or reasonableness of the same in the circuit or chancery courts of Mobile or Baldwin counties, as such person may elect. The commission shall keep a record of its proceedings which shall be published within five days after each meeting, in a journal published daily in the city of Mobile, Alabama, which journal shall be designated by the commission, as soon as practicable after this act shall be effective, and at the end of each six months thereafter, upon bids to be submitted to the commission. The by-laws of the commission shall go into effect upon the expiration of thirty days from the date of the publication in the journal, as provided for above. It shall be the duty of the commission, at each regular session, to examine all the accounts of the commission and of its employees, and to determine what work shall be undertaken within the scope of the commission's powers and duties. The commission shall, so far as lies within its power, improve, enlarge and protect the natural

Duties and  
powers of  
commission.

oyster reefs of this State as its means shall permit, and shall assist in protecting lessees and owners of private bedding grounds in the enjoyment of their rights, and shall make a report, annually, to the governor and shall make a report to the legislature at each session thereof, which said report shall set out the general condition of the oyster industry and shall contain such recommendations as by the commission may be deemed proper for the development of the industry and the proper protection of the rights of the State and its citizens.

Time of meeting;  
duties of officers.

Section 3. *Time of meeting and duties of officers.*—That the commission shall have an official seal, and shall meet on the first Monday in each month, from September to April, both inclusive, and at such other times as business may require, provided that the commission shall not have more than twenty meetings in any one oyster year which said oyster year shall extend from the first day of each September to the thirty-first day of the following August. Meetings shall be held at the office of the board of oyster commissioners. The president may call special meetings at any time, by giving five days notice to each member of the commission. The commission shall receive and audit accounts of the oysters bought and caught and all accounts of all canners and all dealers in oysters, and the accounts of all deputy commissioners and members of the board, and of the expenses incident to the carrying into effect of this act; and shall see that privilege taxes and license fees as hereinafter provided are paid and that the officers of the commission faithfully discharge their duties; and the commission shall hear complaints of any person or persons aggrieved by the action of the commission or any officer or officers thereof. The members of the board of oyster commissioners shall receive as compensation five dollars per day for each day during which they are engaged in attendance upon the meetings of the Board or visiting the factories or shippers, or caring for the reefs or supervising the planting of shells and oysters, but in no event shall any member of the commission receive per diem compensation exceeding twenty days in any one oyster year, as



above provided for. In addition to the per diem compensation, however, each commissioner shall receive his actual traveling expenses in going to and returning from the meetings of the board, or performing other duties as herein specified. Such expense accounts of each commissioner shall be audited by the board, and as audited, allowed. The board shall annually at a regular meeting to be held on the first Monday in September, elect a president from their number who shall preside at all meetings and have one vote. The board shall also elect a chief deputy commissioner, who shall be a sea-faring man qualified to serve as master of a schooner on the oyster waters of Alabama, and who shall not be a member of said board and shall not be interested in the oyster industry as a fisher, packer, dealer or catcher of oysters, but shall be familiar with the oyster industry. This chief deputy commissioner shall receive a sum not exceeding seventy-five dollars (\$75.00) per month for the performance of the duties of his office, which are hereinafter specified. The oyster commission shall also annually elect at the said meeting a secretary, who may be a member of the said commission, and who shall perform all such duties as are performed by a secretary of like bodies and such other duties as may be prescribed by the commission; he shall keep his office in the office of the oyster commission at Mobile, Alabama, and shall keep the seal of the board and all papers and records thereof, and shall receive as his compensation six hundred (\$600.00) dollars per annum and the sum of fifty cents (50 cents) for each license issued. Nothing herein contained shall prevent his receiving his regular per diem also, if he should be a member of the oyster commission. The said commission shall also elect assistant deputy oyster commissioners, not exceeding three in number, who shall have the same qualifications as the chief deputy oyster commissioner; and the chief deputy oyster commissioner and his assistants shall serve at the pleasure of the oyster commission and may be removed or discharged by the oyster commission for such acts as shall seem proper to the commission. The chief deputy oyster commissioner and his assistants

Compensation of Chief  
Deputy Commissioner  
and Secretary.

shall visit the different points where oysters are canned, shipped, caught or grown, and shall enforce the provisions of this act. The assistant deputy oyster commissioners shall receive, during the time they are employed, compensation at the rate of not exceeding sixty dollars (\$60.00) per month, together with their actual expenses of transportation. If for any reason the commission shall not be able to hold its annual meeting on the first Monday in September, then the meeting shall be held and the foregoing officers elected at the first meeting held after the first Monday in September.

Licenses for catching oysters.

Section 4. *Licenses for Catching Oysters.*—

That any owner of any vessel desiring to catch or take oysters from the public oyster reefs or private bedding grounds of this State for commercial purposes shall first obtain from the secretary of the board of oyster commissioners a license therefor, and said license shall have effect until revoked by the commission; and no vessel shall be used in catching, planting or bedding oysters for commercial purposes on or from the public reefs and private grounds of the waters of this State unless so licensed. No license shall be issued to any person who is not a bona fide resident of the State of Alabama and a naturalized citizen of the United States, but a license may be issued to any natural person who is a bona fide resident of the State of Alabama and a naturalized citizen of the United States, and to any corporation chartered under the laws of Alabama and doing its business in Alabama.

Auditor to furnish license blanks; Secretary to account for license blanks.

Section 5. *The Secretary to Account for License Blanks.*—That the State auditor shall furnish the said secretary from time to time a sufficient number of license blanks of a form adopted by the oyster commission, which shall be charged to said secretary and all unused blanks shall be accounted for annually by said secretary, and all money collected therefor by said secretary shall be paid into the State treasury monthly and placed to the credit of the oyster protection fund.

Licenses, what to show fees for same.

Section 6. *Licenses—What to Show, Fees for Same.*—That each license to take or catch oysters in the State shall state the name of the applicant and of the name of his or her vessel, and a li-

cense under the provisions of this act shall not be used except on the vessel so mentioned in the said license, and the applicant therefor shall pay a license fee of fifty (50) cents to the secretary of the commission.

Section 7. *Boats to be Licensed.*—That no person shall take or catch oysters for commercial purposes from the public reefs or private bedding grounds of this State in an unlicensed boat, and all persons shall exhibit their licenses for taking or catching oysters.

Section 8. *Boats to Carry Signs.*—That the board of oyster commissioners shall have printed a sufficient number of signs in black figures on white canvas, numbered from one to two hundred, consecutively, and a greater number if needed, and shall also have prepared a sufficient number of metallic signs in size six by eight inches, numbered from one to five hundred, or greater if necessary, with letters two by three inches: the said metallic signs shall be used on all boats of one ton burden and under, and the black figures on white canvas shall be used on all boats over one ton burden. The black figures on white canvas, above provided for, shall be twenty-two inches in length and of proportionate width. The black figures on white canvas shall be, when vessel carrying same is fishing or taking oysters, attached to one of the sails of the vessel in some conspicuous place. When vessels of one ton burden or under are fishing, catching or taking oysters they must have exposed the metallic number furnished, at the starboard side of the vessels in some conspicuous place.

Section 9. *Privilege Tax on Canning Factories and Shippers.*—That each canning factory shall pay a privilege tax of one hundred dollars (\$100.00) per annum on each steam box, and each shipper of raw oysters, a privilege tax of one-sixteenth (1-16) of one cent per barrel on all oysters handled. Each canning factory and shipper of raw oysters shall receive from the secretary of the board of oyster commissioners a license therefor upon the payment of said sum to said secretary, as well as a license fee of fifty cents for issuing the same, and it shall be un-

Privilege tax  
on canning fac-  
tories.

lawful for any person to can or ship raw oysters without first having paid said tax and received said license.

**Tax per barrel.** Section 10. *Tax per barrel.*—That in addition to the privilege license required by this act, a further tax and fee of three cents per barrel is hereby laid upon all oysters canned and packed in, and on all oysters shipped raw in and from, this State, and on all oysters caught or taken from the public reefs or private bedding grounds for packing, canning and for shipment or sale raw. Nothing in this act contained shall be construed to impose this tax upon the taker or catcher of oysters from the lands under the waters of this State; provided that said taker or catcher of oysters is not engaged in the business of packing, shipping, canning, buying oysters in the shell, or conducting the business of an oyster dealer. If the person who takes or catches oysters should sell them in parcel lots of five barrels or less, then he shall be deemed a dealer in oysters as to such parcel lots of less than five barrels, but if he disposes of his entire cargo or disposes of it in parcel lots, of more than five barrels, then he shall not be deemed an oyster dealer. This tax shall be paid by the person, firm or corporation, packing or canning said oysters, and in case of oysters sold or shipped raw by the person marketing or shipping same, that is to say, by the first dealer marketing said oysters, and any oysters sold by any person who has purchased same from a dealer who has paid the license thereon, shall not again be taxed. It shall be the duty of the secretary of this commission to collect from each firm, corporation, packer, commission man, dealer, or other person engaged in buying and selling oysters, said tax, for the month preceding, upon the first day of each month, or so soon thereafter as practicable, and oftener if he deem it necessary, and to pay the same to the State treasurer each month. Each packer, canner, corporation, firm, commission-man and dealer shall keep a record of all oysters purchased by him or them, with the names of the parties from whom purchased and date of purchase, and shall keep an itemized account of all oysters caught by such packer, canner, cor-

poration, firm, dealer or other person, and all caught and taken by boats controlled by them, and shall exhibit the same at all times when called upon by any commissioner or officer of the commission so to do, and shall on the first day of each month, make return under oath as to the number of barrels purchased and caught during the preceding month, and the willful making of any false affidavit to any return shall be perjury and punishable as provided in other cases of perjury. Taxes shall be collected by the chief deputy commissioner under this section.

Section 11. *Disposition of Moneys.*—That all money received or obtained by the commission by the payment of taxes, the issuance of licenses or in any other manner under the provisions of this act, except the sum of fifty cents for each license to be retained by the secretary, shall be paid over to the State treasurer, and shall constitute a fund to be known as the oyster protection fund.

Disposition of  
moneys.

Section 12. *Oysters to be culled.*—That all oysters taken from the public reefs and private bedding grounds of the waters of this State, either with scoops, tongs, or other instruments, or appliances shall be culled, provided the small oysters and shells can be safely separated from the large oysters, and all young oysters measuring less than three inches from hings to mouth, and all dead shells shall be returned, when practicable, to the bed or bar from which taken, and it shall be unlawful for any person to remove from public reefs or beds where taken any oysters without, as soon as practicable, culling the same and returning all dead shells and young oysters to the same reefs from which taken.

Oysters to be  
culled.

Section 13. *Percentage of Small Oysters and Shells.*—That no captain or persons in charge of any vessel shall have oysters in his or her possession or offer for sale, in this State, oysters taken from the public oyster reefs or private bedding grounds which contain more than ten per cent by measure of shells and small oysters and in order that the chief deputy commissioner may arrive at the percentage of uncultured oysters, he shall cause to be culled, according to law, every tenth barrel in the cargo, if he deem

Percentage of  
small oysters  
and shells.

it necessary; if the cargo upon this basis of percentage prove uncultured, in violation of the law, the chief deputy commissioner shall cause the same to be re-cultured, and the young oysters and dead shells to be taken to some place designated by the chief deputy commissioner and he shall proceed against said offender, as the law directs for such offense.

Oysters must  
be culled.

Section 14. *Must be Culled.*—That it shall be unlawful for any person to knowingly purchase or have in his possession, except on bottoms legally leased for oyster culture, and bottoms belonging to riparian owners, oysters not culled according to law.

To patrol  
oyster grounds.

Section 15. *To Patrol Oyster Grounds.*—That the board of oyster commissioners may provide the chief deputy commissioner with a boat or vessel with which he shall patrol, daily, the oyster waters of the State and shall see that all oysters taken from the public oyster reefs or private bedding grounds are properly culled, and all small oysters and shells returned to the bed whence taken. Such chief deputy commissioner and his assistant deputy commissioners shall be and they are hereby clothed with the power to arrest any person or persons caught in the act of violating any of the provisions of this act and to take him or them for trial before a justice of the peace in Baldwin county or before a justice of the peace in Mobile county, or before the inferior criminal court of Mobile county, depending upon whether the offense be committed nearer to the shores of the one county or of the other, as the case may be. It shall be the duty of every master of a licensed vessel, when called on by any officer of the commission so to do, to assist that officer both in person and with his boat and crew in making arrests when any person sought to be arrested shall attempt to escape or resist arrest, and any master or member of a crew of a licensed vessel, as aforesaid, failing to assist any officer of the commission when called on so to do, shall be guilty of a violation of this act, and shall be subject to its penalties. No officer of the commission has any authority to arrest without warrant except in cases of one caught in the act of a violation of this act, but

he may arrest any person charged with a violation of this act, upon proper warrant.

Section 16. *Boat and Crew.*—That the Board of oyster commissioners shall provide the necessary boat and engage the necessary crew to be employed by the chief deputy commissioner in patrolling the waters of the State as aforesaid, and all expenses therefor shall be audited and allowed by the board of oyster commissioners at any regular meeting or any meeting called therefor, not to exceed in amount one hundred and fifty dollars per month, exclusive of the salary for the chief deputy commissioner, as fixed by this act.

Boat and crew to be provided by commission.

Section 17. *To Spread Oyster Beds.*—That during the season between the first day of May and the first day of September in each year, the chief deputy commissioner, under the direction and control of the board of oyster commissioners, may employ additional boats, crews and laborers and shall take the oysters in the waters of Alabama from places where they are too thick and shall spread them on reefs where they are too thin, provided that the oysters shall not be kept out of water longer than four hours; and shall carry shells from the factories and spread them in places where the oyster beds can be improved and enlarged thereby, and the board of oyster commissioners, in transplanting and spreading shells may expend such sums out of the "Oyster Protection Fund," as may be available after paying the annual expenses of enforcing this act.

To spread oyster beds.

Section 18. *How Expense are to be Paid.*—That all expenses of enforcing this act, together with the salaries of the officers herein provided for shall be paid by the State treasurer out of the "Oyster Protection Fund" on the warrant of the auditor. Whenever an allowance is made by said board, a certificate shall be issued to the person to whom such allowance is made, which certificate, with a copy of the account on which the allowance is made, shall be presented to the governor, and when the governor shall have endorsed his approval thereon, the auditor shall issue his warrant therefor.

How expenses are to be paid.

The closed season.

Section 19. *The Closed Season.*—That it shall be unlawful for any person to catch or take oysters, or have oysters taken from the public oyster reefs in his or her possession between the first day of May and the first day of September in any year, provided that this section shall not prevent transportation companies from carrying oysters from other States through this State, nor shall oysters be taken from the public reefs between the first day of May and the first day of September, for any purpose, except as provided for in section 17 of this act. The months of April and November are reserved for the benefit of planters, who may take from such public reefs, as may be designated by the oyster commission of Alabama, during these two months, oysters without being culled. Oysters taken from the public reefs for planting during the other months of the open season must be culled in conformity with section twelve (12) of this act.

Unlawful to violate or evade this act.

Section 20. *Unlawful to Violate or Evade this Act.*—That it shall be unlawful for any packer, commission man, shipper, boatman or any other person to conspire or agree with any person to evade any of the provisions of this act, or to knowingly participate in any such violation.

Deputy commissioner, duties; penalties for evading the law.

Section 21. *Deputy Commissioners' Duties; Penalties for Evading the Law.*—That it shall be the duty of the deputy commissioners to supervise the operation of the oyster industry and to diligently aid in the enforcement of the provisions of this act, and it shall be unlawful for any packer, commission man, boatman, shipper, or other person to refuse to open his house or boat, where oysters may be dumped or stored, to any officer of the commission who may desire to examine same; or to conspire or agree with any other person to evade any of the provisions of this act, or to knowingly connive at or participate in any such violation.

Chief deputy and secretary to make bond.

Section 22. *Oyster Commissioners, Chief Deputy Commissioner and Secretary to Make Bond.*—That each member of the board of oyster commissioners, the chief deputy commissioner, and the secretary of the commission shall enter into a bond in the penal sum of one thousand



and dollars. (\$1,000.00). The bonds of the commissioners shall be approved by the secretary of State, conditioned according to the laws of and payable to the State of Alabama, filed in the office of the secretary of State, and recorded in a book to be kept for that purpose in his office. The bonds of the chief deputy oyster commissioner and the secretary shall be approved by and filed with the commission, and shall be conditioned and payable like the bonds of the commissioners. Each of said officers shall take an oath to faithfully discharge the duties of the office upon which he is about to enter and shall file said oath with said secretary of State.

Section 23. *Board to Report to the Governor.*—That it shall be the duty of said commission <sup>Board to re-</sup> to make an annual report to the governor and <sup>port to gov-</sup> to report to the legislature at each meeting in which said reports shall set forth in detail the amount of expenses of the industry under their supervision.

Section 24. *The Governor May Remove Members of Board.*—That the governor shall have <sup>Governor</sup> the power to remove the president or any mem- <sup>may re-</sup> ber of the board for neglect of duty or incompetency, and to appoint his successor, and the board of oyster commissioners shall have the <sup>move mem-</sup> power to remove any deputy commissioner or other subordinate officer for any neglect of duty or incompetency, malfeasance or misfeasance in office, whenever the interest of the service may, in their judgment require it, and to appoint another in his stead. <sup>bers of board.</sup>

Section 25. *Steam Dredges Not Allowed to Take Oysters.*—That no dredges, tongs, scoops <sup>Steam</sup> or other instrument or appliance of any char- <sup>dredges not al-</sup> acter propelled, managed, aided, used or oper- <sup>lowed to take</sup> ated by means of steam, or any other power except hand or sail, shall be used or employed in catching or taking oysters in any of the waters of this State. This shall not prohibit the transportation by means of vessels, operated by any power whatsoever, of any oysters which have been legally caught. No dredge whatever shall be operated or used in any manner in the waters of Alabama, west of a line drawn from King's Bayou to Fort Gaines, and east of a line drawn

from Mullet Point to Little Point Clear. Hand or sail dredges may be used in the waters of Alabama save in the portions thereof just above excepted. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than one thousand dollars.

Exhausted  
beds.

Section 26. *Exhausted Beds.*—That whenever the board of oyster commissioners shall become satisfied that there is danger of any part of the public reefs becoming exhausted for any reason the board shall cause said reefs, or parts thereof, to be marked, and after said reefs have been so marked by order of the board of oyster commissioners, it shall be unlawful for any person to take oysters from said reefs, for a period of not longer than two years thereafter. At the expiration of one year the oyster commissioners, if they find the reefs sufficiently replenished, may open the same to the public for taking oysters, by public notice.

Standard of  
measure de-  
fined and  
adopted.

Section 27. *Standard of Measure.*—That a standard of measure for oysters is hereby established which said measure shall consist of a tub or other round vessel of the following dimensions to-wit: It shall measure seventeen inches, in diameter inside at the bottom and twenty-one and one-half inches inside at the top, and fourteen and one-half inches inside from bottom to top, the unit of such tub or measure to be in the shape of an inverted frustrum of a cone. Two of these measures filled to the top shall make one barrel and all oysters bought and sold in this State in the shell shall be measured in a measure of these dimensions or measure holding a fraction or multiple thereof, and it shall be unlawful for any person to have in his possession any measure for oysters in the shell which shall differ in capacity from the measure herein provided for or to demand or require a greater or less measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters until it has been measured and stamped by a deputy commissioner, with a metal tag or stamp, showing quantity of oysters such measure will hold. It shall be the duty of the deputy oyster commis-

sioners to make such measurements and to visit for that purpose each place where oysters are bought and sold as required during the canning season and there shall be kept in the "Oyster Measure Record" herein provided for, the dimensions of all vessels so measured. The chief deputy commissioner shall keep a book to be known as the "Oyster Measure Record" in which he shall register the names of each person, firm or corporation to whom he has issued such stamp, and the date of issuance; and said record shall be open for the inspection of the public during each business day from the hour of eight o'clock in the morning to the hour of six o'clock in the evening, during which time the office of the commission must be kept open for the transaction of business. For every false or fraudulent issuance of said stamp, or for every stamp issued without a record thereof being kept in the "Oyster Measure Record," the chief deputy commissioner shall be guilty of a misdemeanor and shall, on conviction, be fined the sum of fifty dollars, one-half of which shall be paid to the person or persons informing on the said chief deputy commissioner, and the other one-half shall be paid into the oyster protection fund.

Section 28. *Oysters in the Shell or Partially Cooked.*—That it shall be unlawful for any person, firm or corporation to take or transport out of the State of Alabama for canning purposes, oysters in the shell or partially cooked so long as such person, firm or corporation, can obtain in Alabama for oysters in the shell, suitable for canning forty-five cents (\$0.45) per barrel, delivered at any factory point within the State. If any person, firm or corporation, cannot obtain the said price at any factory point in Alabama for oysters in the shell, suitable for canning, then the oysters may be transported out of the State of Alabama for canning purposes. Any person, firm, or corporation, violating the provisions of this section shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars.

Section 29. *Defining the Right of the State to Water Bottoms and Giving the Oyster Commission Power to Lease Same.*—That all the beds

Oysters in  
shell or par-  
tially cooked.

Defining the  
right of the  
State to water

bottoms; and  
giving Oyster  
Commission  
power to  
lease same.

and bottoms of the rivers, bayous, lagoons, lakes, bays, sounds and inlets, within the jurisdiction of the State of Alabama, and all oysters naturally grown thereon shall be, continue and remain, the property of the State of Alabama to be held in trust for the people thereof, provided that nothing in this section contained shall be construed to extend the right and title of the State to oysters growing and being upon the bottom under the waters within the six hundred yard limit in the next succeeding section hereof, and shall be under the control of the Oyster Commission of Alabama, hereinbefore created, which said Commission may permit of its use by residents of the State of Alabama, firms composed of residents of Alabama, and corporations chartered under the laws of Alabama, for the purpose of fishing, taking, catching, bedding and raising oysters, in accordance with the provisions of this act. No grant, sale or conveyance of the lands, forming the bottoms or beds of said bodies or streams of water, except the conditional leases and dispositions hereinafter provided for shall hereafter be made. Alabama corporations domiciled in this State with their factories, shucking plants, and shipping depots located in this State, may enjoy the right of fishing oysters from the natural reefs or bedding oysters on leased bedding grounds, provided such oysters are canned, shucked or packed in this State, or shipped raw in shells, from a shipping depot in this State for consumption either in or out of this State.

Defining what  
water bottoms  
are owned by  
the State and  
individuals.

Section 30. *Defining what Water Bottoms are Owned by the State and Individuals.*—That the riparian rights of the owner or occupant of lands bordering on the shores of any of the waters hereinbefore described, shall extend out six hundred yards from low water mark on a straight line, approximately at right angles to the shore line of the owner of the upland, providing the said line of six hundred (600) yards shall not take in what is known as a natural reef or obstruct a recognized channel, and no one shall own in fee simple the bottoms of the waters of this State except within the six hundred yard limit aforesaid. All leases of bedding grounds made in pursuance of this act shall continue in

force and effect up to their expiration, provided such lessees shall pay to the oyster commission the rental provided for by this act.

Section 31. *Giving Commission Power to Establish Ports of Entry.*—That the said commission shall acquire such boats, vessels and other property as may be necessary to regulate and control the oyster industry. The said commission shall have the power to establish ports of entry at such points as it may deem convenient, where taxes hereinbefore levied on oysters shall be paid. Power of commission to establish ports of entry.

Section 32. *Leasing Barren Water Bottoms.*—That the said commission shall have the power to lease any barren water bottoms in the State of Alabama, as described in section twenty-nine (29) of this act, and the title whereof is vested in the State of Alabama. These leases can only be made to citizens of Alabama, Alabama firms, composed of citizens of Alabama and Alabama corporations domiciled in this State. Leasing barren water bottoms.

Section 33. *How to Secure Leases.*—That any qualified person, firm or corporation, desiring to lease a part of the bottom or bed of any of the waters of this State as provided for above, shall present to the commission a written application setting forth the name and address of the applicant, a reasonably definite description of the location and amount of the land covered by water desired, and shall pray that the application be registered, that the water bottoms be surveyed, and a plan or map of survey thereof be made, and that the water bottoms described be leased to the applicant under the provisions of this act. Thereupon the secretary of the commission shall stamp the date and hour of filing, register such application and shall order the survey, and plan made forthwith. When applications are made by two or more persons for the same lands, they shall be issued to the applicant who first file applications for same. The commission shall require the bodies of land leased to be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness or soft mud which would render them desirable or undesirable for the purpose of oyster cultivation. How to secure leases.

Leases to mark water bottom leased; penalty for failure.

**Section 34. *Lessees to Mark Water Bottom Leased.***—That as soon as a survey shall have been made, and the plan or map thereof shall have been filed with the commission, the commission shall execute, in duplicate, a lease of the water bottoms of the applicant, one duplicate to be delivered to him and the other with the plan of survey to be retained by the commission, and registered in a lease book which shall be kept and thereafter such lessee shall enjoy the exclusive use of said lands, and all oysters, shell and clutch grown or placed thereon shall be his exclusive property. The commission shall require the lessee to mark the water bottom leased, by such ranges, monuments, buoys, and the like as it may deem necessary to ascertain and locate the same, to the end that the location and limit of the land embraced in such lease be easily and accurately bound and fixed. Failure on the part of the lessee to comply with the order of the commission to this effect within the time fixed by it, shall subject such lessee in the discretion of the commission to a fine not exceeding two dollars (\$2.00) per acre. All lessees shall cause the area of the leased water bottom and the name of the lessee to be shown by signs as may be determined by the commission.

Price fixed for leasing.

**Section 35. *Price Fixed for Leasing.***—That all leases shall be made under the provisions of section thirty-four (34) of this act, and shall begin on the day that the lease is signed and shall continue in perpetuity under such restrictions as shall hereafter be provided in this act. The minimum rent shall be fifty cents and the maximum rent shall be five dollars per acre or any fraction of an acre per year. This rent shall be paid in advance at the time of signing the lease, up to the first day of October following, and thereafter in advance on or before the first day of October of each year, whether the lease be held by the original lessee, or by an heir, assign, transferee or devisee. No person, firm or corporation, shall lease, hold or control more than one hundred acres of these water lands and any person firm or corporation which holds or controls or seeks or attempts to hold or control by partnership or otherwise more than this amount by any

scheme, agreement or understanding or combination whatsoever, shall forfeit all leases held by him or it and shall be thereafter barred from ever leasing any water bottoms from the State. No taxes or assessment or other licenses, other than those imposed in this act, shall be levied or imposed on said leases or said leased lands, but the annual rental exacted and paid shall be held and considered all that can or shall be exacted by the State, or any of its subordinate corporations or municipalities. Each tenant leasing water bottoms under the provisions of this act shall after two (2) years from the commencement of this lease, place under cultivation at least one-tenth of the water bottoms leased and shall place under cultivation an additional one-tenth of the water bottoms leased, in each year thereafter.

Section 36. *Showing Leases to be Heritable and Transferable.*—That said leases shall be subject to devise, shall be heritable and shall be transferable in whole or in part, provided that the devisee or transferee shall be a resident of this State, or a firm consisting of residents of this State or corporation chartered under the laws of Alabama; and provided further that the devisee or transferee shall not hold, in the aggregate, more than one hundred acres, including the amount already held, and the amount so taken by the devisee or transferee. Leases heritable and transferable.

Section 37. *Forfeitures and Redemptions.*—That all leases shall stipulate for the annual payment of rent in advance on or before the first day of October in each year, and shall further stipulate that the failure of the tenant to pay rent for a period of thirty days after it shall be due, shall determine and cancel said lease, and thereupon the commission shall in the name of the State of Alabama proceed to sell said lease to the highest and best bidder for cash after having first given three weeks' notice thereof by publication once a week in some newspaper published daily in Mobile, Alabama, and from the proceeds of such sale the commission shall take out the amount of rent so due and the costs and expenses of the sale and proceedings leading up thereto and residue, if any, shall be paid to the lessee whose lease has been cancelled. If no purchaser should bid Forfeitures; Redemptions, made of.

on such leased land the commission may bid in the lease for the State and thereupon the State shall have full right and title to all works, improvements, betterments, and oysters on the said water bottoms as well as to the bottoms themselves. The lessee shall have a right to redeem said leased property with the works, improvements, betterments and oysters thereon by him put, either from the State or from any purchaser at such sale or any purchaser from the State, which right of redemption shall exist for a period of two years from the due date of the rent the failure to pay which resulted in the sale hereinbefore provided for. To redeem such lessee must pay the rent for the non-payment of which such sale was made, with interest at ten per cent per annum and all costs and expenses incurred by reason of the sale, publication and proceedings leading up to the same, and the cost of any additional betterments or improvements, oysters or works, which may have been put upon the leased property by any person who shall have bought at such sale or shall have leased such property from the State. Unless this right of redemption shall be exercised within the two years from the due date of the rent for the non-payment of which such sale was made, such right of redemption shall be entirely lost.

Increase of  
rentals.

Section 38. *Increase of Rentals.*—That after a period of twenty (20) years from the date when the lease was first signed, the rental shall be increased to not exceeding seven and fifty-one hundredths (\$7.50) dollars as a maximum per acre per annum.

Unlawful to  
lease water  
bottoms con-  
taining nat-  
ural reefs.

Section 39. *Unlawful to Lease water Bottoms Containing Natural Reefs.*—That a natural oyster reef is hereby declared and defined as not less than one acre in continuous area of the bottom of any bay, sound, bayou, creek, or other body of salt or brackish water on which oysters grow naturally, or have grown naturally within a period of five years preceding the time at which such matter may be determined, in quantities sufficient to warrant fishing for them with hand tongs as a means of livelihood. Provided that no gap or break in continuity of less than fifty feet shall be considered in determining the area of any nat-



ural bed. The oyster commission shall in all cases be the judge as to the facts in the determination as to a natural bed. Should any leased water bottoms be subsequently determined to be natural oyster reefs, said lease or leases shall be cancelled by the commission and from the ruling of the commission any aggrieved person may prosecute and appeal to the circuit court of the county within which the alleged natural reef is situated.

**Section 40. *Unlawful to Use Certain Water Bottoms Without Leasing.***—That any person, firm or corporation, that shall stake off the water bottoms of this State or shall bed oysters upon the water bottoms of this State outside of the six hundred yard limit of riparian ownership, as herein above provided for, without previously leasing from the commission such water bottoms, shall be guilty of a misdemeanor and upon conviction thereof must pay a fine of not exceeding one hundred dollars nor less than twenty-five dollars; but no person shall be guilty of a violation of this Section who, at the time that this act shall take effect, is already engaged in the culture or bedding of oysters on the bottoms of the waters of this State beyond the said six hundred yard limit, if such person shall as soon as practicable procure from the commission a lease for the bottoms covered by the oysters so bedded or plated.

**Section 41. *Not unlawful For Planters or Bedders To Use Dredges On Private or Leased Bedding Grounds.***—Lessees of propagating bedding grounds and riparian owners within the six hundred yard limit hereinbefore specified in this act, shall have the right to use in such bedding grounds or bottoms where oysters are grown or kept, any implement or appliance for the taking of same, that such lessee or owner may desire except that no lessee or owner shall be permitted to dredge by any power other than sale or hand. The commission shall require that such lessee or riparian owner shall if he should desire to dredge, procure a permit from the commission to dredge, and the commission shall require from such lessee or owner that a bond with solvent surety shall be furnished, which bond shall be

Unlawful to use certain water bottoms without leasing.

Not unlawful for planters or bedders to use dredges on private or leased bedding grounds.

made to the commission and approved by the commission, in the sum of one thousand dollars, that such dredging shall not be done on natural reefs contrary to law. No charge shall be made for the issuance of this permit by the commission.

Unlawful to remove oysters on shells from leased water bottoms, except by owner of leases.

Section 42. *Unlawful to Remove Oysters or Shells from Leased Water Bottoms.*—That any person who shall wilfully take oysters or shells of cultch bedded or planted by a riparian owner or lessee under this act or any oysters deposited by such lessee or riparian owner, making up a cargo for market, or who shall wilfully carry or attempt to carry same without permission of the owner thereof or who shall wilfully remove, break off, destroy or otherwise injure or alter any bounds, buoys, or other designations of any natural oyster reefs, or private bedding or propagating grounds, or who shall wilfully injure, destroy or remove any inclosures, guards or other protections around any oyster beds, or who shall wilfully move any bedding ground marks, any buoy, or designation placed by the oyster commission, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

Commission to settle boundary dispute.

Section 43. *Oysters Commission to settle Boundary Disputes Between Lessees.*—That the oyster commission herein constituted shall be authorized to settle all disputes as to boundaries between lessees of bedding grounds, the proceedings to be conducted under such rules and regulations as said commission may prescribe, reserving to each party a right to appeal to the criminal court of the County in which such property is situated.

Employment of civil engineers.

Section 44. *Civil Engineers.*—That the oyster commission shall be empowered to employ a competent civil engineer who shall be paid for such work as he may perform at such rates as may be mutually agreed upon in advance.

Penalties.

Section 45. *Penalties for evading provisions of this Act not otherwise provided for.*—That any person violating any provision of this Act, not otherwise specifically provided for shall be guilty of a misdemeanor and upon conviction

shall be punished by a fine of not less than ten nor more than one hundred dollars for each offense.

Section 46. *Oyster Protection Fund Created.* Oyster protection fund created.  
—That all moneys arising from leases, fines, taxes, forfeitures or any other source whatsoever which may come to the hands of the commission under the provisions of this act shall be forwarded to the State treasurer and shall be placed by him to the credit of the "Oyster Protection Fund," which fund shall be held in trust by the State for the purpose of paying expenses of the oyster commission in the discharge of the duties imposed upon it by law. That no account against the State shall be approved unless there is money in the oyster protection fund to pay such account and the amount of money for which the State shall be liable is limited to the amount at the time to the credit of the "Oyster Protection Fund"; and the oyster commission shall not incur any expenses for any purpose whatsoever unless there be funds at the time to the credit of the oyster protection fund, sufficient to pay such expenses so incurred, that all accounts of the oyster commission for service or for expenses shall be paid upon the requisition upon the State treasurer by the secretary of the oyster commission, which requisition shall be endorsed by the president of the oyster commission and must be approved by the governor.

Section 47. *The Repeal of Conflicting Laws.*  
—That all laws and parts of laws in conflict with the provisions of this Act, general, local or special, be and the same are hereby repealed: Repeal of conflicting laws.

Approved Aug. 27, 1909.

No. 163)

AN ACT

(H. 124

To amend Section 638 of the Code of Alabama.

Be it enacted by the Legislature of Alabama; Stenographer of attorney general.  
That Section 638 of the Code, be amended so as to read as follows: 638. The attorney-general may employ a stenographer at a salary of nine hundred dollars, which shall be paid at the same time and in the same manner as the salaries of the other clerks in the executive department.

Approved Aug. 25, 1909.

To amend Sections 6620 and 6621 of the Code of Alabama, 1907.

Millers or  
manufac-  
turers of corn  
meal, or chops,  
regulations as  
to.

Be it enacted by the Legislature of Alabama: That Sections 6620 and 6621, of the Code of Alabama, 1907, be amended so as to read as follows: Sec. 6620. Millers or Manufacturers of corn meal grits or chops, regulations as to: Any miller, firm, person or corporation shall be guilty of a misdemeanor who manufactures, grinds, or repacks corn meal, or chops, or who conducts a merchant mill, to pack or cause to be packed, to be offered for sale to merchants or the general public, or to carry in stock with intent to sell corn meal, bolted or unbolted, or chops, packed in any other than six pounds, twelve pounds, twenty-four pounds, forty-eight pounds, and ninety-six pound sacks, or ninety-six pound barrels, and one hundred and ninety-six pound barrels, wood; or who shall fail to have plainly painted or stencilled upon them, "Bolted meal" or "unbolted meal," or "chops," steam or water ground, as the case may be, as indicating the kind of power used in the mill producing the same, "eighth bushel," "fourth bushel," or "peck," "half bushel," "one bushel," "two bushel," and the barrel and half barrel, or who shall fail to show the net weight in pounds.

Merchants or  
dealers in corn  
meal, or chops,  
regulation as  
to.

Sec. 6621.—Merchants or dealers in corn meal, or chops, regulations as to. Any merchant, dealer, vendor, hawker, or other character of seller, who sells, offers for sale, or keeps in stock with intent to sell, any corn meal or chops, bolted, or unbolted, in any other than six pounds, twelve pounds, twenty-four pounds, forty-eight pounds, and ninety-six pound sacks, or ninety-six pound half barrels, and one hundred and ninety-six pound barrels, wood, shall be guilty of a misdemeanor; Provided any retail merchant may, on order, weigh from bulk meal or chops, any number of pounds desired by an individual customer.

Approved Aug. 25, 1909.

No. 173)

AN ACT

(H. 179

To amend Section 2047 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That Section 2047 of the Code of Alabama be amended so as to read as follows: 2047. Appropriations and payment of same.—The following appropriations are made out of the treasury of the State of Alabama for the purposes named; For building servant houses and such other improvements as the board of control shall deem necessary, two thousand dollars; for repairs and insurance on buildings, two thousand dollars; for the maintainance of inmates and the payment of cooks and other necessary labor, per capita, one hundred and fifty dollars per annum for each inmate in the home at the beginning of each quarter on the order of the executive committee of the board of control. For the payment of the salaries of the officers of the home as follows: Commandant, per annum, one thousand two hundred dollars; adjutant, six hundred dollars; resident physician, six hundred dollars; for hospital help, one thousand dollars, payable the beginning of each quarter on the order of the executive committee. For the payment of the inmates of the home, the sum of one dollar per month each so long as they are inmates, payable at the beginning of each quarter on the order of the executive committee of the board of control. The State auditor shall draw his warrant on the State treasurer in favor of the commandant and treasurer of the Soldiers Home at Mountain Creek, upon the certificate of the executive committee of the board of control of said soldiers home, for the amounts herein appropriated.

Approved Aug. 26, 1909.

No. 183)

AN ACT

(H. 210

To require courts of county commissioners and boards of revenue, in the counties where there is levied a road tax, general or special, or where, by the tax levy a portion of the tax levied for or devoted to the pur-

pose of constructing, repairing or maintaining roads or highways of any description of the county, to pay over each year to each municipality therein one half of the money collected on such road tax on the property located in such municipality, and to provide for the disposition of such money. Be it enacted by the Legislature of Alabama.

Maintenance of streets county matter. Section 1. That the maintenance of streets of municipalities in the State of Alabama is hereby, for the purposes of this act declared to be a county matter.

One half road tax collected in municipality to be paid to city. Section 2. That courts of county commissioners and boards of revenue, where there is levied a road tax, general or special, or where by the tax levy a portion of the tax is levied for or devoted to the purpose of constructing, repairing or maintaining roads or highways of any description, in the county, shall pay over each year to each municipality therein one-half of the money collected on such road tax on the property located in such municipality.

To be used exclusively for streets. Section 3. That such sums when paid over to the municipalities shall be used exclusively for maintaining the streets in the corporate limits of such municipality, provided that if the tax is levied for any particular class of roads or highways, such sums shall be used on the streets of the municipality for roads of a similar character to such roads or highways.

Repeal of conflicting laws. Section 4. That all laws or parts of laws in conflict with this act, general or special, be and the same are hereby repealed.

Approved Aug. 26, 1909.

No. 222)

AN ACT

(S. 152

To provide for the payment of insurance and repairs on buildings at the Soldiers Home at Mountain Creek, Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That one thousand dollars be appropriated out of any funds in the treasury, not otherwise appropriated, for the purpose of insuring and repairing the houses of the Soldiers' Home at Mountain Creek, Alabama.

Approved Aug. 26, 1909.

No. 223)

AN ACT

(S. 137)

To amend Section 3860 of the Code of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That section 3860 of the Code of Alabama be and is hereby amended so as to read as follows: 3860. (1712) (3207) (3580), Application To Court of Probate For Order of Condemnation.—Any county, municipality or corporation organized under the laws of this State, or any person or association of persons proposing to take lands or to acquire an interest or easement therein for any uses for which private property may be taken, or to drain marshes or wet land, or to divert the course of a non-navigable stream for the better utilization of the land interest or easement acquired, or proposed to be acquired for any such purpose, may if there be no other mode of proceeding prescribed by law, apply to the court of probate of the county in which such lands or a material portion thereof may be situate, for an order of condemnation thereof to such uses.

Approved Aug. 26, 1909.

No. 227)

AN ACT

(H. 128)

To prescribe the qualifications of jurors and regulate the selection, drawing and summoning of jurors, and prescribe the qualifications and provide for the appointment of jury commissioners and clerks of such commissions and regulate the empanelling of grand and petit juries in all the courts of this State. Be it enacted by the Legislature of Alabama.

1. That there is hereby created and established in every county, in this State, a jury commission, composed of three members to be appointed by the Governor, within thirty days after the approval of this Act. One commissioner shall hold office till the first Monday after the second Tuesday in January, 1911; one commissioner shall hold office till the same day in 1912; one

Qualifica-  
tions of jury  
commission-  
ers.

commissioner shall hold office till the same day in 1913; and the governor in making such appointments shall designate the terms to be held by such appointee respectively; and upon the expiration of each of these terms, the governor shall appoint successors, who shall hold office for three years, from the expiration of the term of office of their respective predecessors.

Section 2. No person except as herein otherwise provided shall be eligible to be appointed or to hold office as jury commissioner or clerk of a commission who holds any office under the Federal, State, county, or municipal governments, nor who is a deputy, or clerk, assistant clerk, or employee of any such offices, nor who is or becomes employed by any person, or corporation, who is a party to any suit triable by juries pending in any State court of record in the county, nor shall any person who has two or more pending suits for or against him triable by jury in any state court of record in the county be eligible to appointment as jury commissioner; and every person appointed to the office of jury commissioner shall be, at the time of his appointment, a qualified elector and freeholder or householder of the county, under seventy years of age, and of good moral character, and reputed to be a man of integrity and good judgment, and who is able to read and write the English language.

President to  
be elected;  
Compensa-  
tion of com-  
missioners.

Sec. 3. The commissioners shall elect one of their number president of the commission, and any two commissioners shall be a quorum for the transaction of business. Every commissioner before entering upon the discharge of his duties must take the oath of office prescribed in Section 279 of the constitution and be commissioned by the governor. Each commissioner shall be paid the sum of five dollars per day for the time actually engaged in the discharge of his duties as such commissioner, to be paid out of the county treasury, upon the warrant of the probate judge of said county. Such warrants are to be issued by said probate judge upon evidence satisfactory to him that such service has been rendered; provided, however, that the compensation of each commissioner shall not exceed for any year of his term the following amounts, viz: in counties



of 25,000 population or less, \$100; in counties exceeding 25,000, and not exceeding 50,000 population, \$200: in counties exceeding 50,000 and not exceeding 75,000 in population, \$300: And in counties exceeding 75,000 in population, \$600: the population of said respective counties to be determined by the Federal census.

Sec. 4. In the event that two of the jury commission are absent from the State, sick, or for any reason cannot discharge the duties imposed upon them by this act, then the other jury commissioner shall notify any judge of a Court of record, residing in the county to appear and take the place of the absent members, and in such case, one judge and one commissioner shall constitute a quorum, and if no such judge is present, or able to serve, he must immediately notify the governor who shall appoint competent persons to act as jury commissioners, until the regular jury commissioners are present and able to discharge their duties.

Sec. 5. In counties having seventy five thousand and population or less by the last Federal census preceding the employment, the clerk of the circuit court, or court, having the jurisdiction of the circuit court, where the circuit court has been abolished, may be employed as the clerk of the commission, and in such counties the clerk of the commission whether he be clerk of a court or not, shall be paid for his services rendered under the direction of the commission, the sum of three dollars per day while actually engaged in performing his duties, to be paid out of the county treasury upon the order of the president of the commission. In counties having more than seventy-five thousand population as shown by the last Federal census preceding his employment, the commission shall employ a clerk who shall hold no office during the term of his employment, and he shall be paid for his services rendered; under the direction of the Commission, the sum of five dollars per day while actually engaged in performing his duty, to be paid out of the county treasury, upon the order of the president of the commission.

Sec. 6. Every clerk of a jury commission before entering upon the discharge of his duties under this Act, must take and subscribe the oath

When two of commissioners are absent or sick, judge of court acts.

Employment of clerk; compensation of.

Oath of clerk.

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of office prescribed by section 279, of the constitution and file the same for record in the probate office of the county.

Neglect of  
duty.

Sec. 7. Any commissioner, or clerk of a commission, who neglects to perform any duty imposed upon him by this act, or any person who being duly summoned to attend before the commission wilfully fails to do so, or attending refuses to testify is guilty of a misdemeanor.

Clerk to pro-  
cure names of  
male citizens  
in county.

Sec. 8. The clerk of the commission shall, under the direction of the commission, obtain the names of every male citizen of the county over 21 and under 65 years of age, and their occupation, and place of residence, and place of business and shall perform all other duties required of him by law under the direction of the commission.

Time of clerk;  
may be dis-  
charged.

Sec. 9. The clerk of the commission must give such time to the performance of his duties as may be required by the commission, but shall not be paid for Sundays. The commission may at any time, discharge any clerk employed by it and employ another.

Meetings of  
commission;  
Methods of  
preparing  
roll.

Sec. 10. The jury commission shall meet in the court house at the county seat of the several counties on the first Monday in October, 1909, or as soon thereafter, as practicable, and shall make in a well bound book a roll of every male citizen living in the county, who possesses the qualifications herein prescribed, and who is not herein specifically exempted from serving on juries. The roll shall be arranged alphabetically and by precincts in their numerical order, and the commissioners shall cause to be written on the roll opposite every name placed thereon the occupation and residence and place of business of every person selected, and if the residence has a street number, it must be given. Upon the completion of the roll, the commission shall cause to be prepared plain white cards, all of the same size and texture, and shall have written, or printed, on the cards, the name, occupation and place of residence and place of business of the person, whose name has been placed on the jury roll; writing or printing, but one person's name, occupation and place of residence and of business, on one card; these cards shall

be placed in a substantial metal box, provided with a lock and two keys, which box shall be kept in the safe or vault in the office of the probate judge and if there be none in that office, the commission shall deposit it in any safe, or vault in the court house to be designated on the minutes, and one of said keys thereof shall be kept by the president of the commission. The other of said keys shall be kept by a judge of a court of record having juries other than the probate or circuit court and in counties having no such court then by the judge of the circuit court for the sole use of the judges of the courts of said county needing jurors.

Sec. 11. The jury commission shall place on <sup>what shall be</sup> the jury roll, and in the jury box, the names of <sup>placed on jury</sup> all males citizens of the county, who are gener- <sup>roll and in</sup> ally reputed to be honest and intelligent men, <sup>jury box.</sup> and are esteemed in the community for their integrity, good character and sound judgment, but no person must be selected, who is under twenty-one or over sixty-five years of age, or who is an habitual drunkard, or who, being afflicted with a permanent disease or physical weakness is unfit to discharge the duties of a juror, or who can not read English, or who has ever been convicted of any offense involving moral turpitude. If a person can not read English and has all the other qualifications prescribed herein and is a free-holder or householder his name may be placed on the jury roll, and in the jury box.

Sec. 12. Whenever the names in the jury box <sup>When names</sup> are exhausted, or so far depleted, that they will <sup>in jury box</sup> probably be exhausted at the next drawing of <sup>are exhausted.</sup> jurors, the commission must proceed to make and certify a new roll, and deposit the names in the box in all respects as provided in this act; and for this purpose, the jury commission must meet whenever it is necessary and refill the jury box.

Sec. 13. The following named persons, and <sup>Persons ex-</sup> none others, are exempt from jury duty: School <sup>empt from</sup> teachers, while actually engaged in teaching. <sup>jury duty.</sup> Judges and clerks of the several State and Federal courts; attorneys at law actually engaged in the practice; practicing physicians, surgeons, dentists and licensed pharmacists; nurses, offi-

cers and servants of any hospital; the sheriff and his deputies, U. S. Marshal and his deputies; train dispatchers and chief telegraph operators; police officers of any municipality; all officers and members of any regular paid or volunteer fire department in active service; all state and county officers, and justices of the peace; post masters; superintendents of railroads, and their chief clerks; superintendents of street railroads; licensed engineers and pilots of any boat plying the waters of this State; railway mail clerks; railroad station agents and superintendents of mines, while engaged in their respective occupations; druggists in towns having only one drug store.

Jury commission must place name of every qualified person on jury roll; use of initials alone not allowed.

Sec. 14. The jury commission is charged with the duty of seeing that the name of every person possessing the qualifications prescribed by this act to serve as a juror shall be placed on the jury roll and in the jury box, and they may summon and cause to attend before them any person residing within the county and examine him on oath, touching the name, residence, occupation and qualifications of any person residing in the county. The commission must not allow initials only to be used for a juror's name, but one full Christian name, or given name, shall in every case be used, and in case there are two, or more persons of the same, or similar name, the name by which he is commonly distinguished from the other persons of the same or similar name, shall also be entered as well as his true name. The commission shall require the clerk of the commission to scan the registration lists, the lists returned to the tax assessor, any city directories, telephone directories, and any and every other source of information from which he may obtain information and to visit every precinct at least once a year to enable the commission to properly perform the duties required of it by this act.

When juries to be drawn; by whom drawn; method of procedure with regard to summoning.

Sec. 15. Before the adjournment of any term of a court requiring jurors for the next term, the judge, or where there are more than one then any two of the judges of the court shall draw from the jury box in open court the names of not less than fifty persons to supply the grand jury for such term and petit juries for the first week

of such term of the court, or if a grand jury is not needed for that term at least thirty persons, and as many more persons as may be needed for jury service in courts having more than one division for the first week, and after each name is drawn it shall not be returned to the jury box, and there shall be no selection of names, and must seal up the names thus drawn, and retain possession thereof, without disclosing who are drawn until twenty days before the first day of the term of the court for which the jurors are to serve, when he shall forward these names by mail, or express, or hand the same to the clerk of the court who shall thereupon open the package; make a list of the names drawn, showing the day on which the jurors shall appear and in what court they shall serve, and entering apposite every name the occupation of the person, his place of business, and of residence, and issue a venire containing said names and information to the sheriff who shall forthwith summon the persons named thereon to appear and serve as jurors. If for any reason the judge fails before the adjournment of the court, to draw the juries for the next term of the court, whether it be an adjourned term, special term, extra term, or a regular term, he shall at least twenty days before the beginning of any of these terms, draw the jurors which he should have drawn before the adjournment of the last term. If for any reason the Judge of the court fails to draw the juries as required in this section before the twenty days above mentioned the clerk of such court shall notify the judge of any court of record, except probate judge, residing nearest to the place of holding the court, and it shall be his duty upon receiving such notification to immediately draw the juries for the next term of the court in the manner herein provided.

Sec. 16. The sheriff shall execute every order to summon jurors, except as otherwise provided herein, by giving personal notice to every such person, or by leaving a written notice at the place of his residence with some member of his family, or some person residing in the same house, at least two days before the day appointed for the service of the juror in court, which order must be returned to the clerk of the court whence

Method of  
summoning  
jurors; re-  
turns.

it issued with the proper return thereon showing the manner of service, by the sheriff, on or before the day appointed for the appearance of the juror.

**Sheriff failing to summon.**

Sec. 17. If the sheriff, or any deputy, shall negligently fail to summon any person to serve as a juror whom he is commanded to summon, he shall be held and deemed guilty of a contempt of court and it shall be the duty of the court to fine him not more than one hundred dollars in every case where the person is so not served, and he may also be imprisoned in the county jail for not more than five days. The return of any such person as "not found" shall be prima facie evidence of negligence on the part of the sheriff, or deputy making the return and he shall be punished by the court unless the court is reasonably satisfied from evidence produced, that, he was not negligent. If the sheriff fails to summon any jurors drawn, or any person summoned fails, or refused to attend the trial, or there is any mistake in the name of any person drawn, or summoned, none, or all of these grounds shall be sufficient to quash the venire, or continue the cause. No juror drawn or summoned under this act shall be required to serve as such until the first Monday in January 1910, and all jurors required for service up to that time shall be drawn, summoned and empanelled and shall serve under the law in force prior to the passage of this act.

**Effective first Monday in January, 1910.**

**Empanelling grand and petit juries.**

Sec. 18. The court shall require all persons named in the venire to be called, and shall then hear all excuses and claims of exemptions and disqualifications, and after passing upon all of the excuses, or claims, shall cause the names of all the jurors in attendance upon the court on that day, and who have not been excused by the court, to be written on separate slips of paper, or cards; and placed in a hat, or box, and thereupon the judge of the court must, in open court, draw from the hat, or box, at terms requiring grand juries, the names of eighteen jurors who shall be empanelled and sworn as the grand jury for that term of the court provided that only one grand jury is authorized by law for that term, but if more than one grand jury is authorized

by law for such term than said jurors, so empanelled, shall be the first grand jury for said term and any subsequent grand jury, or grand juries form such term as is now or may hereafter be authorized by law must be drawn, summoned, sworn and empanelled, as provided in this act, during the said term and the venire for same may contain such number of names as the judge may deem necessary. The judge must then proceed to draw from the hat or box, the names of twelve jurors who shall be empanelled and sworn as petit jury No. 1., and in like manner the Judge must draw and empanel and swear petit jury No. 2., and when necessary, as many more jurors as the judge or judges of the court may deem proper, all of whom shall serve as petit jurors for that week, unless discharged sooner by the court, and may be required to serve till any case on trial is determined. If petit juries are needed for any week or weeks of the term after the first week the Judge or any two judges of said court, if there are more than one judge shall, in like manner at such times as to him or them may seem best draw from the jury box such number of names not less than thirty, for each of such subsequent weeks, as will, in the discretion of said judge or judges, be sufficient for the week for which same are drawn: Provided that no name shall be drawn for any week after the first week of the term more than twenty days before the first day that such juror is to serve. The clerk shall issue venires for the jurors so drawn and they be summoned for their respective weeks and sworn and empanelled in the same manner as petit jurors for the first week of the term.

Sec. 19. The names of all jurors drawn and summoned under this act who are not empanelled shall forthwith be returned by the judge to the jury box in open court unless they are disqualified or exempt. The clerks of the several courts in which juries are empanelled shall from time to time, as the juries are empanelled, certify to the jury commission the names of all persons so empanelled, and the clerk of the commission, under the direction of the commission shall note opposite the names of such persons on the

Jury No. 1.

Jury No. 2,  
etc.

Names re-  
turned to jury  
box.

Clerks must  
certify.

Certificate as to disqualification.

jury roll the date on which and the court in which they were empanelled. The clerk of the several courts shall also certify to the jury commission the names of all persons who have been found by the court to be disqualified, or exempt, which fact shall be noted opposite their respective names on the jury roll.

When not enough jurors judge must draw names from box; residence of jurors.

Sec. 20. Whenever there are not enough qualified jurors in attendance upon the court to form the juries required, the judge of the court shall draw from the jury box names of as many jurors as he may deem necessary, who are then within, or reside within five miles of the court house, or if the court is held in a city having more than ten thousand inhabitants by the Federal census, who resides, or who are within the corporate limits of such city, to complete all juries then required and shall require the sheriff forthwith to summon all jurors thus drawn to attend court when required, and he may summon them by personal service, or by telephone or by telegraph, or may in like manner order a deputy, or special deputy to summon them, or may by telephone, or telegraph, direct a deputy to summon such jurors. The court shall then proceed to empanel, or complete the empanelling of the juries as provided in this act. In the event the juries, either grand or petit, after being completed should be reduced from any cause to below the number required by law, the court shall in the manner prescribed in this act supply all deficiencies in the number of any such jury in the court.

How summoned.

How deficiencies are supplied.

Judge may draw names other than those living in certain territory; how summoned.

Sec. 21. Wherever it shall appear to the judge drawing tales jurors for service in any case, that, the names of persons living within five miles of the court house, or within such city of 10,000 inhabitants, have been exhausted, the judge may then draw from the jury box the names of such other persons as may be necessary, and have them summoned, as tales jurors are summoned. Whenever any judge of a court, or of a division of a court, needing jurors either grand or petit, requires it, he shall procure the jury box and the key thereto and shall, as soon as he has drawn therefrom the jurors required at that time have the key and box delivered to any other Judge in

Judge shall draw from jury box, etc.



that court house, who may then need it, and as soon as the box has been used by all the judges needing it, the last judge using it shall deliver the key thereof to the proper custodian and cause the jury box to be returned to its regular place of deposit.

Section 22. Whenever a jury is required to try any issue in a probate court, or chancery court, or other court, of the county, the probate judge, or chancellor, or judge of such other court, as the case may be, shall procure the box and key thereto and shall draw from the jury box as many names as he may think necessary, in no case less than twenty-four, and must immediately return the key and box to the proper custodian thereof respectively, and after each name is drawn it shall not be returned to the jury box, and there shall be no selection of names, and shall make and file a record of the drawing, and issue an order to the sheriff requiring him to summon the jurors and the probate judge or judge of such other court or chancellor must draw the juries in the manner provided by this act, and the judge, or chancellor shall cause the names of those disqualified and exempt and those empanelled to be certified to the jury commission as required by this act.

Juries in probate and chancery court.

Certificate to commission.

Sec. 23. That no objection to an indictment on any ground going to the formation of the grand jury which found the same can be taken to the indictment, except by plea in abatement to the indictment; and no objection can be taken to an indictment by plea in abatement except upon the ground that the grand jurors who found the indictment were not drawn by the officer designated by law to draw the same; and neither this objection nor any other can be taken to the formation of a special grand jury summoned by the direction of the court. Any plea in abatement to an indictment must be filed at the first term at which the indictment was found, if the accused has been arrested, or if the accused has not been arrested such plea in abatement must be filed at the first term at which it is practicable after the defendant has been arrested and in all cases such plea in abatement must be filed before the plea to the merits.

Plea of abatement only ground of objection to indictment.

When plea to be made.

Special and  
extra terms;  
juries for.

Sec. 24. That juries, grand and petit, for any special, adjourned, or extra term of any court requiring a grand jury, or petit juries, which have not been drawn by the judge of the court, may be drawn by the judge in term time, or vacation, or the judge of the court may draw as many persons to serve as grand and petit jurors as he thinks necessary, and have them summoned as in cases where jurors are drawn to try capital cases.

Juries for  
territorial  
sub-division of  
county; sepa-  
rate box re-  
quired.

Sec. 25. Whenever a court requiring grand and petit juries, or petit juries, established for and held in a territorial subdivision of the county, the jury commission shall make and keep a separate roll and make a separate box for that court and territorial subdivision, on which roll and in which box only the names of jurors residing in that territory shall be placed, which box shall be kept by the clerk of said court and the key thereof by the judge of said court, and all jurors for that court shall be drawn by the judge of said court as provided in this act from the special jury box provided under this section, and shall be summoned in the same manner as provided in this act.

Costs, etc.  
of summon-  
ing disquali-  
fied juror may  
be taxed to  
commission.

Sec. 26. Whenever it appears to the court that a person's name has been placed upon a jury roll, who did not at the time he was enrolled, possess the qualifications required by law, the court may in its discretion, upon excusing the person from service, tax the cost of summoning the person and of his attendance and excusing him, against the clerk of the commission, or against any one or more of the commissioners.

Felony to un-  
lawfully place  
in or withdraw  
names from  
jury box.

Sec. 27. Any person who shall unlawfully, place in or withdraw from the jury box, any name or names of persons, or destroy, conceal or remove such jury box, or place on or erase from the jury roll, the name of any person, or destroy, mutilate, conceal or remove such jury roll, shall be guilty of a felony and upon conviction shall be sentenced to the penitentiary, or to hard labor for the County for not less than six months or more than two years, to be fixed by the court.

Probate judge  
required to  
furnish sta-

Sec. 28. The judge of probate of every county is hereby authorized and required upon the request of the president of the commission to pur-

chase the necessary books in which to keep the jury rolls and the record of the proceedings, and the necessary cards, stationery and things of all kinds, required by the commission and shall draw his warrant on the county treasury for the payment of the same.

Sec. 29. It is hereby expressly declared to be the intent of the Legislature in the enactment of this law, to make the provisions hereof in the relation to the selection, drawing, summoning or empanelling of jurors directory merely and not mandatory. The jurors selected, drawn, summoned and empanelled under the provisions of this act, whether at or earlier or later day than required by this act, must and shall in all respects be deemed legal, and to possess in full, in every respect, power to perform all of the duties belonging to grand and petit jurors. And no objection can be taken to any venire of jurors except for fraud in drawing or summoning the jurors.

Sec. 30. Should any jury commissioner become disqualified under the provisions of this act, the fact of such disqualification and the ground or reason therefor shall be certified to the governor by the judge of the circuit court of the county, or in counties which there is no circuit court, by the judge of a court having the jurisdiction of a circuit court, and when so certified his office shall become vacant, and the governor shall appoint his successor to fill out the unexpired term; and in case of any vacancy from any other cause, in the office of a jury commissioner, the governor shall appoint a commissioner to fill such vacancy who shall hold for the unexpired term.

Sec. 31. Any person summoned as a juror in any of the modes provided in this act, who shall without legal cause or good excuse fail to attend at the time and place required shall be guilty of a contempt of court, and may be punished by the Court by a fine of not exceeding one hundred dollars.

Sec. 32. All laws, general, special or local, regulating the selection, drawing, summoning or empanelling of grand, or petit juries, or prescribing the qualifications of jurors, or defining

tionery, etc.,  
for commis-  
sion.

Intent of  
Legislature.

No objection  
except for  
fraud in draw-  
ing.

When jury  
commission-  
er becomes  
disqualified.  
governor ap-  
points.

Juror sum-  
moned failing  
to attend,  
guilty of con-  
tempt.

Repeal of con-  
flicting laws.

Right of challenge in civil cases.

Court to require lists of jurors made.

Solicitor to strike one name and defendant two from lists.

When number of jurors is reduced below twenty-four judge to draw others.

Place of residence.

When person indicted for

who are exempt from jury service, or exempting certain persons or classes of persons, from service upon juries, are hereby expressly repealed, it being the intent of the Legislature, that, this act shall be the exclusive law on such subjects, in all the courts of the State of Alabama. Provided, That in all civil cases tried by jury the right of challenge and the number of challenges for each party and the right to have a struck jury, shall remain as now provided by law, but in every criminal case, the jury shall be drawn, selected and empanelled as follows: Upon the trial by jury in any court of any person indicted for a misdemeanor, or felonies not punished capitally, the court shall require two lists of all the regular jurors empanelled for that week, who are competent to try the defendant, to be made, and the solicitor shall be required first to strike from the list the name of one juror and the defendant shall strike two, and they shall continue to strike off names alternately until only twelve jurors remain on the list, and these twelve thus selected shall be the jury charged with the trial of the case. In case two or more persons are tried jointly, the solicitor shall strike one and each defendant shall have the right to strike off one name and they shall continue thus to strike off names until only twelve remain and the twelve thus selected shall be the jury charged with the trial of the defendants. If for any cause the regular number of jurors competent to try the defendant is reduced below twenty-four, the court must cause twice the number of the deficiency, who live within five miles of the courthouse or who live within the corporate limits of any city of 10,000 or more inhabitants in which the court is held to be drawn and summoned and the names of those appearing, who are competent to try the defendant must be placed on the list of regular jurors for that week, and the solicitor and defendants shall in like manner, as heretofore provided, be required to strike from the lists thus made up, the names of the jurors as provided until only twelve remain, who shall be the jury charged with the trial of that case, Whenever any person or persons stand indicted for a capital felony, the court must on the first

day of the term, or as soon as practicable there-  
 after, make an order commanding the sheriff to  
 summon not less than fifty nor more than one  
 hundred persons including those drawn and sum-  
 moned on the regular juries for the week set for  
 the trial of the case, and shall then in open court  
 draw from the jury box the number of names re-  
 quired with the regular jurors drawn and sum-  
 moned for the week set for the trial to make the  
 number named in the order, and shall cause an  
 order to be issued to the sheriff to summon all  
 persons therein named to appear in court on the  
 day set for the trial of the defendant and must  
 cause a list of the names of all the jurors sum-  
 moned for the week in which the trial is set, and  
 those drawn as provided in this section, together  
 with a copy of the indictment, to be forthwith  
 served on the defendant by the sheriff, and the  
 defendant shall not be entitled to any other or  
 further notice of the jurors summoned or drawn  
 for his trial nor of the charge or indictment upon  
 which he is to be tried. On the day set for the  
 trial, if the cause is ready for trial, the court  
 must inquire into and, pass upon the qualifica-  
 tions of all the persons who appear in court in  
 response to the summons to serve as jurors, and  
 shall cause the names of all those whom the court  
 may hold to be competent jurors to try the de-  
 fendant or defendants to be placed on lists, and  
 if there is only defendant on trial shall require  
 the solicitor to strike off one name and the de-  
 fendant to strike off two names, and in case there  
 are two or more defendants on trial the solic-  
 itor shall strike one and every defendant shall  
 strike one name and they shall in this manner  
 continue to strike names from the list until only  
 twelve names remain thereon. The twelve thus  
 selected shall be sworn and empanelled as re-  
 quired by law for the trial of the defendant or  
 defendants. If in any capital case the number of  
 competent jurors shall be less than twenty be-  
 fore requiring any of them to be stricken off, the  
 court must draw as prescribed in this Act, and  
 have summoned, enough qualified jurors who are  
 within or live within five miles of the courthouse  
 or who live within the corporate limits of a city  
 of 10,000 or more inhabitants in which the court

capital felony  
 to make order  
 summoning  
 jurors.

List of jurors  
 to be served  
 with copy of  
 indictment on  
 defendant.

Court to pass  
 upon qualifi-  
 cation of per-  
 son sum-  
 moned.

Names to be  
 stricken from  
 list of quali-  
 fied jurors by  
 solicitor and  
 defendant.

In capital  
 cases num-  
 ber of jurors  
 before com-  
 mencing to  
 strike shall  
 not be less  
 than 20.

If defendant  
refuses to  
strike from  
list, judge  
shall strike.

Failure of  
sheriff to  
summon all,  
or mistake in  
name not  
sufficient  
ground to  
quash venire.

Where two or  
more capi-  
tal cases set  
for same day.

is held to increase the number to at least thirty, and have their names placed on the list with other competent jurors and shall then require the solicitor and the defendant or defendants to strike from the list as provided in this Section, the number of jurors that each may be entitled to strike off, until only twelve remain thereon, and these twelve shall be sworn and empanelled as the jury for the trial of the defendant or defendants. If any defendant or defendants should refuse to strike the number of jurors allowed him by this Act from the list furnished him, under the direction of the court, then the presiding judge shall proceed to strike off all the names on the list except those stricken off by the solicitor, until there remains only twelve, and these shall constitute the jury for the trial of the defendant or defendants. If the sheriff fails to summon any of the jurors drawn, or any juror summoned fail or refuse to attend the trial, or there is any mistake in the name of any juror drawn or summoned, none nor all of these grounds shall be sufficient to quash the venire or continue the cause; Provided further, that whenever the judge of any court trying capital felonies shall deem it proper to set two or more capital cases for trial for the same day, said judge may draw and have summoned one jury or one venire facias or petit jurors for the trial of all such cases so set for trial on the same day.

Approved Aug. 31, 1909.

No. 82)

AN ACT

(H. 1

To provide for the relinquishment of business by mutual aid or industrial associations and corporations.

Companies de-  
siring to re-  
linquish bus-  
iness to give  
notice of such  
intention.

Be it enacted by the Legislature of Alabama, That when any mutual aid or industrial association or corporation shall desire to relinquish its business and take down its deposit with the insurance commissioner the insurance commissioner shall, on application of such association or corporation, under the oath of its president or principal officer and secretary, give notice of such

intention in such manner as may be prescribed by the insurance commissioner in any paper published in Montgomery, at least once a week for six months. After such publication he shall deliver up to such association or corporation the securities held by him belonging to it, upon being satisfied by an exhibition of the books and papers belonging to such association or corporation after an examination made by himself or by some competent person, to be appointed examiner by him, and upon the oath of the president or principal officer, and the secretary, of such association or corporation, that all its debts and liabilities of every kind are paid and extinguished that are due and may become due upon any contract or agreement made by said association or corporation. The insurance commissioner may also, from time to time, deliver up to such association or corporation, or its assignees, any portion of such securities, on being satisfied in the manner and form hereinbefore required, or upon any other competent proof, that all the debts and liabilities of every kind that are due or may become due on less than the amount or proportion of such securities which he shall still retain.

Insurance  
commission-  
er to deliver  
securities.

Approved Aug. 31, 1909.

No. 102) AN ACT (H. 27

To fix and regulate the right of voting of each stockholder in corporations organized under the laws of Alabama.

Section 1. Be it enacted by the Legislature of Alabama, That in all stockholders' meetings of corporations organized under the laws of Alabama, each stockholder is entitled to one vote for each share of stock held and owned by him, as shown by the stock books of the corporation.

Entitled to  
one vote for  
each share of  
stock.

Approved August 31, 1909.

No. 105) AN ACT (H. 23

To provide for the investigation of fires; to define the duties and powers of certain officials in relation thereto, and to provide means

for defraying the expenses incurred under the provisions of this Act.

**Duties of secretary of State and insurance commissioner.** Section 1. Be it enacted by the Legislature of Alabama, That the secretary of State and ex-officio insurance commissioner, hereinafter designated and styled the insurance commissioner, shall perform the following duties in addition to the duties, now prescribed by law, and his powers for the enforcement of said duties are hereby fixed: (1) The insurance commissioner, upon the written request of the mayor of any city, town or village, of this State, or of the chief of a fire department, or other officer thereof, or of any fire insurance company through its local agent, or general agent, or special agent, or of any citizen of this State, shall as soon as practicable investigate the origin, cause and circumstances of any fire occurring within the State, whereby insured property has been destroyed or damaged, and shall ascertain if possible whether the same was the result of accident, carelessness, or design. And it shall be the duty of the chief of every organized fire department to report to the said insurance commissioner, within one week after the occurrence of any fire, upon blanks furnished by the said insurance commissioner for that purpose, the facts concerning the origin, cause, and circumstances of any fire occurring within the district to which the duties of such fire chief relate. In incorporated cities, towns or villages, where there is no fire chief, it shall be the duty of the chief of police or marshal to report fires in manner above prescribed, and outside of incorporated cities, towns, and villages it shall be the duty of the sheriff of the several counties in this State to report fires as above prescribed. It shall be the duty of the insurance commissioner to keep in his office a record, open to public inspection, of all fires so reported and of all obtainable facts and statistics pertinent thereto and such records and data as the insurance commissioner may require. (2). The insurance commissioner, or a deputy designated by him, shall, when in his opinion it is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any

**Shall investigate fires upon written request of mayor.**

**Testimony on oath.**



facts, or to have means of knowledge in relation to the matter as to which an investigation is being held; and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with an offense he shall cause such person to be arrested and charged with such an offense as the evidence may warrant, and shall furnish to the solicitor of any court having jurisdiction of the offense all the information obtained by him including a copy of all pertinent and material testimony taken, together with the names of the witnesses. (3). The insurance commissioner, or deputy designated by him, shall each have power in any county in this State to summon and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this act, a subject of inquiry and investigation; and may require the production of any book, paper, or document, deemed pertinent thereto, by them or either of them. Said insurance commissioner, or deputy, are each hereby authorized and empowered to administer oaths and affirmations to any person or persons, appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of said insurance commissioner or a deputy commissioner, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned by the insurance commissioner or deputy, to appear before either of them, to give testimony in relation to any matter or subject under investigation as aforesaid, shall be guilty of a misdemeanor and upon conviction fined not less than one hundred dollars nor more than five hundred dollars; and the insurance commissioner or deputy commissioner may make formal complaint of the act of such witness to the judge of any court of record of the county in which the investigation is being held and if it shall then appear that the witness is guilty of a violation

Power to summon and compel attendance of witnesses.

Witness refusing to be sworn, etc., guilty of misdemeanor.

Power to enter  
and examine  
premises.

Investiga-  
tions may be  
private.

May appoint  
additional  
deputy com-  
missioner.

Qualified  
voter,  
Bond.

To file oath.

Form of oath.

of this section, he shall, unless good cause be shown to the contrary, be imprisoned in the county jail until he purges himself of the contempt. (4).

The insurance commissioner, or deputy commissioner, shall have the authority at all times of day and night, in the performance of the duties imposed by the provisions of this act, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same.

(5). All investigations held by, or under the direction of the insurance commissioner, may in his discretion be private and persons other than those required to be present by the provisions of this act, may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other, and not allowed to communicate with each other until they have been examined.

Section 2. The insurance commissioner may within thirty days after the approval of this act appoint a deputy commissioner of insurance, in addition to the deputy now provided by law, who shall be required by the insurance commissioner to perform all necessary duties as prescribed by this act, and said deputy commissioner shall be removable at the pleasure of the insurance commissioner, and said deputy insurance commissioner shall be a citizen and qualified voter of this State; he shall be required to give bond with a guaranty company, or personal sureties in the sum of five thousand dollars, (\$5,000.00), for the faithful performance of his duties, and said bond must be filed with and approved by the insurance commissioner. Before entering upon his duties said deputy insurance commissioner must subscribe to and file with his bond the following oath; "State of Alabama, County of -----; I,-----do solemnly swear that I will support the constitution of the United State and the constitution and laws of the State of Alabama, so long as I continue a citizen thereof, and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter to the best of my ability. So help me God."

Section 3. The deputy commissioner appointed under the provisions of this act shall receive a salary of two thousand dollars (\$2,000.00), per annum, payable monthly, and his actual expenses while engaged in the discharge of the duties imposed by this act. Salary. ... Actual expenses.

Section 4. The deputy insurance commissioner, as provided under this act shall have and exercise all the powers as are given the insurance commissioner by the provisions of this act. Powers.

Section 5. For the purpose of defraying the expenses incident to the provisions of this act, and the salary of the deputy commissioner, every fire insurance company doing business in the State of Alabama shall pay to the insurance commissioner annually, in addition to the taxes now required by law to be paid by such companies, one-fifth (1-5) of one per cent on the gross premium receipts of such companies, less return premiums, on all business done in Alabama the year next preceeding, as shown by their annual statements under oath to the insurance department. The insurance commissioner shall cover the money so received into the State treasury as a special fund for the expenses incident to this act, including the salary of the deputy commissioner. Such portion of said special fund remaining unexpended at the end of any year, as the insurance commissioner may certify is not needed for the purposes herein specified, shall be transferred to the general fund of this State; and every fire insurance company doing business in this State shall be charged with the tax above specified from the first day of September, 1909, and shall remit same when the annual statement is filed. Fire companies to pay 1-5 of 1 per cent on gross premiums. Money covered into State treasury as special fund. Surplus transferred to general fund.

Section 6. That in order to carry out the provisions of this act, whenever it shall become necessary to provide funds for the expenses to be incurred or salary of the deputy commissioner, the State Auditor shall draw his warrant upon the State treasurer, upon the certificate of the insurance commissioner certifying that such amount of funds is necessary for the purposes herein, and the State treasurer shall pay the same out of any funds now or hereafter collected by the insurance department. Salary and expenses to be paid on warrant of State auditor by State treasurer.

May require  
sheriff to as-  
sist.

shall serve all  
summons, etc.

County or cir-  
cuit solicitor  
to aid in in-  
vestigations.

Officer re-  
fusing to aid  
guilty of mis-  
demeanor.

Chief of po-  
lice, etc., to be  
paid for ser-  
vices.

Effective.

Section 7. The insurance commissioner or deputy, may require the sheriff of the several counties of the State to attend and assist the commissioners in investigations as provided by this act, and the sheriff shall serve all necessary summons, make arrests and perform all duties necessary; and every chief of police or marshal, when required by the insurance commissioner, or deputy commissioner, shall attend and assist in investigations, and shall serve all necessary summons and make arrests, and perform all duties necessary.

Section 8. The insurance commissioner or deputy commissioner, when in the opinion of either of them it is necessary, may request the county or circuit solicitor to aid in investigations, and said solicitors, or either of them, shall represent the insurance commissioner and his deputy commissioner, in any investigations or examinations that may be made under the provisions of this act.

Section 9. Any officer who refuses to aid the insurance commissioner or deputy commissioner in carrying out the provisions of this act, shall be deemed guilty of wilful neglect of duty, and dealt with accordingly.

Section 10. The insurance commissioner or deputy commissioner, shall pay to the chief of police, marshal or sheriff, for any service performed under this act, the fees for like service as are now allowed by law.

Section 11. The provisions of this act shall go into effect within thirty days after its approval by the governor.

Approved Aug. 31, 1909.

No. 115)

AN ACT

(H. 206

To amend Section 985 of the Code of 1907.

Section 1. Be it enacted by the Legislature of Alabama, That section 985 of the Code of 1907 be amended so as to read as follows: Section 985 (2890) (176). Pay of Alabama National Guard when in service. All officers of the Alabama National Guard ordered into the service of

the State to aid in the enforcement of the laws thereof, shall receive the pay and allowances which officers of like rank in the United States army are entitled by law to receive, and non-commissioned officers and privates shall receive double the pay and the same allowance provided by law for the same rank of non-commissioned officers and men in the United States army.

Approved Aug. 26, 1909.

No. 117)

AN ACT

(S. 40

For the further protection of fish. To make it unlawful to use nets, seines, or other devices, or substitutes for the same in streams or bodies of water emptying into the tide waters of this State for the purpose of catching or taking bass, fresh water trout or bream between April 1st and July 1st of each year. To legalize the use of hoop-nets and fish traps in certain waters of this State.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be unlawful for any person to use any net or seine or other device or substitute for the same for the purpose of catching or attempting to take or catch, in any of the tide waters of this State any bass, fresh water trout or bream, between April 1st and July 1st of each year. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25 nor more than \$50 for each offense.

Section 2. That it is hereby made lawful for any person or persons to use hoop-nets in which bait is used to attract fish, and fish-traps with fingers or slats, not less than two and one-half inches apart, without any other device under, around and above the fingers, for the purpose of taking or catching fish in the streams of this State; provided, that said fish-trap, and wings of said strap, so used shall not occupy more than one-half the width of the stream in which it is operated or located, when the said stream is at low water mark, provided that no hoop-net or

Entitled to  
pay of officers  
of like rank  
in U. S. army.

Unlawful to  
use net, etc.

Gulity of mis-  
demeanor.

May use hoop  
nets, etc.,  
when stream  
is at low  
water mark.

trap shall be set or located within one-half mile below any dam or lock. Any person operating a fish-trap, except as prescribed in this section, or who takes or catches any bass, fresh water trout or bream in any hoop-net or upon any fish trap unless the same be immediately restored to the waters from whence taken, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10, nor more than \$25 for each offense.

Violators  
guilty of mis-  
demeanor.

Unlawful to  
use seines, etc.

Section 3. That it shall be lawful for any person to use seines or other devices for the purpose of taking or catching fish in pools formed by streams that have ceased to run.

Disbursement  
of fines, etc.

Section 4. That all fines and forfeitures arising under the provisions of this act shall be disbursed as provided by section 6905 of the Code of Alabama, 1907.

Approved August 31, 1909.

No. 135)

AN ACT

(S. 14

To amend section 4558 of the Code of Alabama, 1907.

Form and  
contents of  
statement.

Section 1. Be it enacted by the Legislature of Alabama, that section 4558 of the Code of Alabama, 1907, be amended so as to read as follows: 4558. Form and contents of statement, penalty for failure to comply with laws.—The statement of the insurance company shall be subscribed under oath by the president and secretary, or other chief officers or managers, or authenticated by the insurance commissioner, or officer having charge of, or supervision of insurance companies of the home State of such company, and shall be renewed annually on or before the first day of March of each year, or as soon thereafter as the insurance commissioner may require, and shall contain a full report of its condition, as prescribed in sections 4556, 4557 of this Code, on the thirty-first day of December preceding, which statement shall be published by it at its own expense in a daily or weekly newspaper of general circulation in this State and a copy of the paper containing such publish-

Publication.

ed statement must be filed with the insurance commissioner within thirty days after license has been issued to such company. Upon failure of any company to comply with this section promptly, fully, and correctly, such company will forfeit its right to do business in this State for one year thereafter, and shall pay to the State the sum of two hundred and fifty dollars, and shall forever thereafter be debarred from doing any business in this State until such penalty is fully paid. The annual statement of a company of a foreign country shall only be required to embrace its business and conditions in the United States.

Copy to be filed.  
Upon failure company will forfeit right to do business.  
Foreign company's statement to cover U. S. business.

Section 2. This act shall be effective on the first day of January, nineteen hundred and ten.

Approved Aug. 31, 1909.

No. 147)

AN ACT

(S. 21

To amend Sections 1508, 1509, 1510, 1513, 1517, 1520, 1522, 1523 and 7006 of the Code of Alabama, 1907, and to repeal section 1514, of the Code of Alabama, 1907.

Section 1. Be it enacted by the Legislature of Alabama, that sections 1508, of the Code of Alabama, 1907, be and the same is hereby amended so as to read as follows: 1508 Prerequisites to granting authority to domestic corporations; application showing financial condition; deposit, certificate of authority; license tax—Any such corporation, if incorporated under the laws of this State, in order to be qualified to so become such surety, must have an authorized capital stock of one hundred thousand dollars, all of which must be subscribed for and paid in, and either held in money or safely invested in the securities created by the laws of the United States, or by or under the laws of this State, or in other safe, marketable, and interest-bearing stocks or bonds or other securities, the value of which shall be at or above par; and such corporation shall also, before it is authorized to become surety, deposit with the treasurer of this State twenty-five thousand dollars of securities

Section 1508 amended.  
Prerequisites to granting authority to domestic corporation.

created by or under the laws of the United States, or by or under the laws of this state, or in other safe, marketable, and interest bearing stocks, bonds, or other securities, the value of which shall be at or above par, in trust for the benefit of the resident holders of the obligations of such corporation, at their market value; and the liabilities of such corporation shall not exceed its available assets; but such liabilities shall not be construed, within the meaning of this section, to include its capital stock, nor its contingent liabilities upon bonds or undertakings executed by or under the provisions of this article, but shall include its outstanding debts and a premium reserve equal to fifty per cent of the annual premiums on all outstanding risks then in force; and such corporation shall also file with the insurance commissioner written application to do business under this article signed by the president or other managing officer, under its corporate seal, and attested by its secretary, or other officer acting as secretary, to be authorized to do business under this article, and also a statement, signed and sworn to by its president, or other managing officer, and by its secretary, or other officer acting as secretary, stating the amount of its paid-up capital stock, and how it is invested, stating each item of such investment, the amount of premiums on existing bonds upon which it is surety, the amount of liability for unearned portions thereof, estimated at fifty per cent of the annual premiums on all outstanding risks for one year or less, and pro rata for items of more than one year; stating also the amount of its outstanding debts and liabilities of all kinds; and thereupon the insurance commissioner, if satisfied that such corporation is solvent, and has the cash capital herein provided for, and that it has in all respects complied with and is qualified under this article, shall issue to such corporation a certificate that it is authorized to become and be accepted as sole surety on all bonds or undertakings required or permitted by the laws of this State, or by the charters, ordinances, rules, and regulations of any county, municipal corporation, board, body, organization, or public officer; such company shall also annually, not later

Insurance commissioner when satisfied shall issue certificate.



than the first day of March of each year, furnish to and file with the insurance commissioner a sworn statement showing the condition of such company as of December 31, of the year preceding. Such company shall also at such times as he may demand the same, furnish to the insurance commissioner such other information touching its condition and credit as he may require, signed and sworn to as in this section provided; and it shall also pay to the insurance commissioner the annual license fees and charges provided in sections 4557 and 4577 of the Code, 1907.

Section 2. That Section 1509 of the Code of Alabama, 1907, be and the same is hereby amended so as to read as follows: 1509. Prerequisite to granting authority to foreign corporation; application showing financial condition; deposit; charter; agent and place of business; certificate of authority; semi-annual reports; annual license tax. If such corporation be incorporated under the laws of any other state, in order to be qualified to so become such surety, it must have an authorized capital stock of at least two hundred and fifty thousand dollars, which must be fully paid up and unimpaired, and safely invested in the securities created by the laws of the United States, or by or under the laws of the state where it is incorporated, or in other safe, marketable, and interest-bearing stocks, bonds, or other securities, the value of which shall be at or above par, one hundred thousand dollars of which shall be deposited with or held by the insurance commissioner or other corresponding financial officer of the state in which such corporation is incorporated and has its principal place of business, in trust for the benefit of the holders of the obligations of such corporation and, in addition thereto, such corporation shall also deposit with the treasurer of this state fifty thousand dollars of like securities, in trust for the benefit of the resident holders of the obligations of such corporation, at their market value; and the liabilities of such corporation must not exceed its available assets, but such liabilities must not be construed, within the meaning of this section, to include its capital stock, nor its

Shall file statement showing condition, etc.

Shall furnish information required and pay fees.

Prerequisite to granting authority to foreign corporation.

Deposit.

Shall file certified copy of charter.

To designate a known place of business and agent for service.

Shall issue to corporation and each agent certificate.

To file statement at end of each year.

contingent liabilities upon bonds or undertakings executed by it under the provisions of this article, but shall include its outstanding debts and a premium reserve equal to fifty per cent of the annual premiums of all outstanding risks in force; and such corporation shall also, before transacting any business in this state, file with the insurance commissioner a certified copy of its charter or act of incorporation, and the written application and statements required hereinbefore in the preceding section of this article of domestic corporations. Such corporation shall also, in addition to the foregoing requirements, file in the office of the insurance commissioner of this state an instrument in writing under the seal of said company and signed officially by its president or one of its vice-presidents, and by its secretary or one of its assistant secretaries, designating a known place of business in this state, and the insurance commissioner the agent, upon whom service of any process or notice required or authorized by law may be made for or on behalf of such corporation. Whereupon, and upon the payment of the license hereinafter required, the insurance commissioner, if satisfied that such corporation is solvent, and has the cash capital herein provided for, and surplus assets, in excess of its capital stock, its outstanding debts and premium reserve specified, and that it has, in all respects, complied with and is qualified under this article, shall issue to such corporation, and to each of its agents in this state, a certificate that it is authorized to become and be accepted as sole security on all bonds or undertakings required or permitted by law, or the charters, ordinances, rules, and regulations of any county, municipal corporation, board, body, organization, or public officer. Such company shall also, annually, not later than the first day of March of each year, file with the insurance commissioner a statement showing the condition of such company as of December 31, of the year preceding, and shall also furnish him with a certificate from the officer with whom the deposit herein mentioned is required to be made, describing such securities so deposited and the manner in which they are held by him, and stat

ing that he is satisfied that such securities are fully worth one hundred thousand dollars, and that said corporation is solvent; and such corporation shall also furnish the insurance commissioner at such times as he may demand the same, such other information touching its condition and credit as he may require, signed and sworn to as in this section provided; and it shall also pay the insurance commissioner the annual license fees and charges as provided in sections 4557 and 4577 of the Code of Alabama, 1907.

To pay annual license fees, etc.

Section 3. That section 1510 of the Code of Alabama, 1907 be and the same is amended so as to read as follows: 1510. Insurance commissioner's certificate good for one year. The certificates hereinbefore provided for by the insurance commissioner to such corporations, foreign or domestic, shall only authorize such corporations, to engage in such business during the year in which or for which it is issued; and such corporations must obtain such certificate annually and not later than March first each year.

Section 1510 amended.

Certificate good for one year.

Section 4. That section 1513 of the Code of Alabama, 1907 be, and the same is, amended so as to read as follows: 1513. Insurance commissioner must revoke certificate when corporation deemed unsafe; effect notice; additional bonds; duty of approving officers. The insurance commissioner shall at any time, on becoming satisfied that any corporation, is insolvent, or cannot be safely accepted as surety upon the instruments hereinbefore provided for, or upon such corporation failing on demand to furnish the insurance commissioner full and satisfactory information touching its business, securities, or investments, or upon such corporation violating any of the provisions of this article, revoke the authority of such corporation to transact any new business in this state; and thereupon the right of such corporation to transact any new business shall cease, and it shall not thereafter be allowed to transact such business until it has again received from the insurance commissioner another certificate of the character hereinbefore prescribed. Upon revoking such authority, the insurance commissioner shall give notice thereof, in some newspaper of general circulation published at

Section 1513 amended.

To revoke certificate when corporation deemed unsafe.

Notice of revocation.

the seat of government, and by circular letter to each officer in this state authorized to approve official bonds, stating the grounds of such revocation. If such authority is revoked upon the ground that such corporation is insolvent, or cannot be safely accepted as surety upon such bonds or undertakings, it shall be the duty of any such officer, upon receiving such circular letter, or upon his having brought to his attention such publication, to require the principal in any such bond upon which such corporation has become surety to give an additional bond as provided by law.

Section 1517  
amended.

Judgment on  
bond certified  
to Insurance  
commis-  
sioner.

Must require  
sale of bonds.

Section 5. That section 1517 of the Code of Alabama, 1907, be, and the same is, hereby amended so as to read as follows: 1517. Judgment on bond certified to insurance commissioner; sale of securities. If any such foreign or domestic corporation shall fail or refuse to pay any final judgment or decree rendered against it upon any such bond or undertaking from which no appeal and supersedeas has been taken for thirty days after the rendition of such judgment or decree, it shall be the duty of the clerk or register of the court in which such judgment or decree was rendered to certify a copy thereof to the insurance commissioner together with the fact that it remains unpaid, and the insurance commissioner must require the state treasurer to sell as many of the bonds or other securities deposited by such corporation with the state treasurer as may be necessary to pay such judgment or decree and the interest and costs thereon, and to pay to the clerk or register of such court, from the proceeds of such sale, the amount of such judgment or decree, with interest and costs; and it shall be the duty of the state treasurer to sell such bonds or other securities at private or public sale, with or without notice, or so many as may be necessary, for the best price he can obtain in the market, to assign the same to the purchaser and to apply the proceeds, or so much thereof as may be necessary, to the payment of such judgment or decree, with interest and costs, the surplus, if any, remaining on deposit in lieu of the bonds or other securities so sold. Of such sale the insurance commissioner

must forthwith notify such corporation and require it to supply the deficiency within thirty days; and if such corporation shall fail to do so, the insurance commissioner must cancel its authority to act under this article, and give notice thereof to the persons and in the manner prescribed by the fourth preceding section.

Section 6. That section 1520 of the Code of Alabama, 1907, be and the same is, hereby amended so as to read as follows: 1520. When value of deposit impaired by sale or depreciations the same must be made good; faith and credit of state pledged to return securities, etc. If at any time the bonds or other securities deposited by foreign or domestic corporations with the State treasurer under the provisions of this article should be diminished in amount by sale, as hereinbefore provided, or should depreciate in value, the insurance commissioner shall require such corporation to deposit other bonds or other securities of like kind, as hereinbefore provided, with the state treasurer, so that the amount and value of such bonds or other securities in the hands of the state treasurer shall, at all times, be fifty thousand dollars. For all bonds and securities deposited by all such corporations under the provisions of this article, the faith and credit of the state are hereby pledged, that the said bonds and securities shall be returned to the parties entitled to receive them, or disposed of as provided in this article.

Must notify corporation and require it to supply deficiency.

Section 1520 amended.

When deposits impaired must be made good.

Faith and credit of State pledged to return securities.

Section 7. That section 1522 of the Code of Alabama, 1907, be, and the same is hereby amended so as to read as follows: 1522. Insurance commissioner may order examination into the financial conditions of corporations; duty of corporations; penalty for withholding information. The insurance commissioner shall at any time when he considers the public interest so demands, examine by himself and, or by some one competent to do so, into the financial condition of any corporation, foreign or domestic, doing business under the provisions of this article, such corporation shall submit to the examiner all such books, papers, and securities as he may require; and such examiner shall also have the power to

Section 1522 amended.

May order examination.

Duty of corporation.

Penalty for withholding information.

examine the officers of such corporation under oath touching its business and financial condition, and the authority of any such corporation to transact business under this article, that refuses to allow such examination, shall be revoked by the insurance commissioner, and such corporation shall not thereafter be allowed to transact further business in this state until it has fully complied with the provisions of this section.

Section 1523 amended.

Section 8. That section 1523 of the Code of Alabama, 1907, be, and the same is hereby amended so as to read as follows: 1523. Article applies only to official bonds and the like. Nothing herein contained shall apply to any bond or undertaking which is not by law required to be approved by any state, county, municipal, precinct, township, district, or other like office, or by any judge, clerk, or register, of any court of this state, or to corporations engaged merely in the business of becoming sureties on any such bond or undertaking; and the acts and duties heretofore required to be performed by the auditor and the secretary of state, but now authorized to be performed by the insurance commissioner under this Code, are declared valid and binding, whether performed by the auditor or secretary of state, as formerly required, or by the insurance commissioner as now required.

Article applies only to official bonds, etc.

Section 7006

Section 9. That section 7006 of the Code of Alabama, 1907, be and the same is hereby amended so as to read as follows. 7006. Guarantee company or corporation doing business without authority, bond not invalid. Any guarantee company or any corporation doing a guaranty business, making bonds, giving security or becoming surety upon any bond, contract or obligation in this state, or any officer or agent of such company or corporation who shall carry on or transact such business or a business of like kind and character of that of guarantee companies, without first obtaining the certificate from the insurance commissioner as provided by law, authorizing such company or corporation to carry on or transact such business, or which shall carry on or transact such business after the authority to do so has been revoked by the insurance commissioner, as provided by law, shall be guilty

Bond not invalid of guarantee company doing business without authority.

of a misdemeanor, and upon conviction, must be fined not exceeding one thousand dollars. Nothing however, in this section shall render invalid any bond or undertaking executed by such company or corporation.

Section 10. That section 1514 of the Code of Alabama, 1907, be and the same is hereby repealed. Section 1514 repealed.

Section 11. That this act shall become effective. Effective.  
effective on the first day of January, nineteen hundred and ten.

Approved Aug. 31, 1909.

No. 228) AN ACT (S. 15

To amend section 2089 of the Code of Alabama, 1907.

Section 1. Be it enacted by the Legislature of Alabama, That Section 2089 of the Code of Alabama, 1907, be and the same is hereby amended Section 2089 amended. so as to read as follows: 2089 Insurance Companies to pay tax on gross receipts. Every insurance company, domestic or foreign, doing business in this State, when filing statement as required by section 4556 of this Code shall at the same time pay to the insurance commissioner the following amounts, that is to say: Each fire insurance company shall pay one and one-half dollars on each one hundred dollars of the gross premiums, less return premiums, received by it in this State, and every other insurance company shall pay two dollars on each one hundred dollars of gross premiums less return premiums, so received in this State during the year ending the thirty-first of December next preceeding as a tax for doing business in this State, and no credit or deduction of any kind shall be allowed or made on account of the cost of re-insurance taken by such company, except in companies that are authorized to do business in this State; but the provisions of this section do not apply to any secret or benevolent society, such as Masons, Provisions do not apply to Odd Fellows, Knights of Pythias, Knights of Masons, Odd Honor, Ancient Order of United Workmen or Fellows, etc. like orders. Any insurance company failing or

Company failing or refusing to make return forever debarred.

Effective.

refusing to make returns, as required by law, or failing or refusing to pay the tax herein levied, shall forever be debarred from doing business in this State until it shall have paid a penalty double the amount of such tax then due the State.

Section 2. This act shall be effective from and after January 1, 1910.

Approved Aug. 31, 1909.

No. 174)

AN ACT

(H. 365

To provide for assistance in the office of county treasurers, and to fix compensation therefor.

Be it enacted by the Legislature of Alabama,

Assistance to county treasurer.

1. That in any county where the assessed value of property, based upon the previous years' assessment, exceeds the sum of \$50,000,000.00, the board of revenue or county commissioners of such county shall appropriate for assistance in the office of the county treasurer the sum of \$1,500.00 per annum, to be paid in equal monthly installments on the order of the county treasurer from the funds of the county not otherwise appropriated.

Effective.

2. That this act shall go into effect immediately upon its passage and approval.

Approved Sept. 2nd, 1909.

No. 64)

AN ACT

(S. 22

To appropriate the sum of \$30.00 for the year 1905 and the further sum of \$30.00 for the year of 1907 and the further sum of \$30.00 for the year of 1908, total \$90.00 to W. N. Clifton, of Randolph county, an ex-Confederate soldier, as a Confederate pensioner for said years, his name having been erroneously omitted from the lists of pensioners for said years.

Appropriation benefit W. N. Clifton.

Sec. 1. Be it enacted by the Legislature of Alabama, That the sum of \$30.00 for the year 1905, and the further sum of \$30.00, for the year 1907, and the further sum of \$30.00 for the year



1908, total \$90.00, be and the same is hereby appropriated for the benefit of W. N. Clifton, of Randolph county, an ex-Confederate soldier, as a Confederate pensioner for said years, his name having been erroneously omitted from the lists of pensioners for said years, and the auditor is hereby authorized and directed to draw his warrant or warrants therefor, for the said sum of \$90.00 upon the treasurer in favor of said W. N. Clifton, and the treasurer is hereby authorized and directed to pay the same out of any money in the treasury not otherwise appropriated.

Approved Aug. 20, 1909.

No. 75) AN ACT (H. 69

To fix the time of holding the circuit court of Coffee county, at Enterprise, Alabama.

Be it enacted by the Legislature of Alabama, That after the first of January, 1910, the circuit court of Coffee county at Enterprise, Alabama, shall be held on the second Monday before the first Monday in March and September of each year and shall continue for two weeks at each term.

Approved Aug. 25, 1909.

No. 99) AN ACT (H. 202

To create and establish the Marengo Law and Equity Court for Marengo county.

Section 1. Be it enacted by the Legislature of Alabama, That there is hereby created and established in and for the county of Marengo, in the State of Alabama, an inferior court of law and equity, which shall be a court of record, and shall be known as and called the Marengo Law and Equity Court. That said court shall be invested with, and shall have and exercise, all the jurisdiction and powers which are now, or which may hereafter be, conferred by law upon the several circuit and chancery courts of this State. When exercising the jurisdiction and powers of the circuit court, it shall conform to the rules of practice and procedure in the circuit courts of

Time of holding circuit court of Enterprise.

Court established.

Jurisdiction and powers.

To adopt  
rules of prac-  
tice.

the State; and when exercising the jurisdiction and powers of the chancery court, it shall conform to the rules of practice and procedure of the chancery courts of the State, except in cases where such rules of practice and procedure in said circuit and chancery courts are changed by the provision or under the authority of this act. And, provided, that the judge of this court shall have the power and authority to make and adopt such rules of practice and procedure for this court, not inconsistent with the provisions of this act, as in his opinion may be required and necessary for an expeditious dispatch of the business of said court, and for a proper system of practice and procedure in said court, and may amend or annul the same as may be expedient; and such rules of practice and procedure shall be entered upon the minutes of said court, and shall be subject to revision, change or annulment by the supreme court of this State.

Judge, ap-  
pointment of.

Term of office.

Oath of office.

Powers of  
judge.

Section 2. That there shall be a judge of and for said Marengo Law and Equity Court, who shall be appointed by the governor of Alabama within ten days after the approval of this act, whose term of office shall begin immediately upon the issuance of his commission, and shall continue until the first day of January, 1911, and until his successor is elected and qualified. At the general election in November, 1910, and every six years thereafter, the judge of and for said court shall be elected by the qualified voters of Marengo county; and the judge so elected shall hold office for six years, commencing on the first day of January, following his election, and until his successor is elected and qualified. The judge of the court herein provided for shall take the oath of office prescribed by law before entering upon any of the duties pertaining to his office, and he may be impeached or removed from office for the same causes, by the same tribunals, and in the same manner as judges of the circuit courts of this State. The said judge of said court shall have and exercise all the authority, jurisdiction and powers which are now, or may be hereafter, lawfully exercised by judges of the circuit courts and chancellors of the chancery courts of this

State, including power and authority to issue writs of injunction, prohibition, certiorari, mandamus, habeas corpus, supersedeas ne exeat and all other writs which are now or may hereafter be lawfully issued by the said judges of said circuit courts and chancellors of said chancery courts of this State, returnable to any court within the State. The judge of said court shall have been a citizen of the United States and of the State of Alabama for a period of five years, and a citizen of the county of Marengo for a period of two years next preceding his election, and shall be not less than twenty-five years of age, and shall be learned in the law; and at the time of his election and during his continuance in office he shall reside in Marengo county. Vacancies in the office of judge of said court shall be filled by appointment by the governor, and the appointee shall hold his office until the next general election for any State officer held at least six months after the vacancy occurs, and until his successor is elected and qualified; the successor chosen at such election shall hold office for the unexpired term and until his successor is elected and qualified. The said judge of said court shall be commissioned as the circuit judges in this State are commissioned and shall take the oath of office prescribed by law. If in any case, civil or criminal, pending in this said court, the presiding judge thereof, for any legal cause, be incompetent to try, hear or render judgment in such case the parties, or their attorneys of record, if it be a civil case, or the solicitor or prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practicing in the court and learned in the law, to act as a special judge to sit as a court, and to hear, decide, and render judgment in the same manner and to the same effect as such incompetent judge could have rendered but for such incompetency. If the case be a civil one, and the parties or attorneys of record, do not agree; or if it be a criminal one, and the prosecuting officer and the defendant or defendants do not agree upon a special judge, or if either party in a civil cause is not represented in court, the register in chancery or the clerk of

Qualification  
of judge.

Vacancy, how  
filled.

Commission.

Special  
judge.

Upon certificate of clerk governor appoints special judge.	<p>said court, shall appoint a special judge, who shall preside, try and render judgment as herein provided. Provided, that if the clerk or register of said court shall certify to the governor that the judge of said court will be absent or disqualified or unable to hold said court for the period of more than two days, then the governor shall appoint a resident practicing attorney of said court to act and perform the duties of judge of said court until the said judge of said court shall resume his duties; and while so acting such special judge shall have and exercise all the authority, jurisdiction and powers, in all respects, the same as the judge of said court, and such special judge shall receive as compensation for services for each day he is engaged in holding said court the same compensation as is allowed to special judges in the circuit courts of this State, which shall be paid in the same manner and out of the same fund as special judges in the circuit courts of this State are paid.</p>
Compensation.	<p>Section 3. That the salary of the judge of said Marengo Law and Equity Court shall be two thousand dollars per annum, payable in the same manner and out of the same funds as the salaries of judges of the circuit courts of this State are paid, computing the term of said judge to begin from the date of the issuance of his commission.</p>
Solicitor; appointment of,	<p>Section 4. That there shall be a solicitor of and for said Marengo Law and Equity Court, who shall be appointed by the governor of Alabama within ten days after the approval of this act, whose term of office shall be four years from the date of his appointment, and in like manner such solicitor's successor shall be appointed by the governor every four years thereafter. And the solicitor so appointed by the governor shall take the oath of office prescribed by law before entering upon the discharge of any of the duties pertaining to his office, and may be impeached or removed from office for the same causes, in the same manner, and by the same tribunals as circuit solicitors are impeached or removed from office, and he shall be charged with the performance of the same duties in said court, and be subject and liable to the same penalties and liabilities in re-</p>
Term of office.	
Impeachment of.	

spect thereto, as by law are imposed upon circuit solicitors in like cases in the circuit courts of this State; and said solicitor shall not be allowed to represent any defendant in a criminal case in any of the courts of Marengo county during his continuance in office, nor shall any law partner of said solicitor defend any criminal case in any of the courts of Marengo county. Vacancies in the office of solicitor of said court shall be filled by appointment of the governor of Alabama, and such appointee shall hold office for the unexpired portion of his predecessor's term, and until his successor is appointed and qualified.

Section 5. That the solicitor of and for said Marengo Law and Equity Court shall receive a salary of twelve hundred dollars per annum as compensation for his services, said salary to be paid monthly out of the Marengo Law and Equity Court fine and forfeiture fund hereinafter provided for, upon his order drawn on the treasurer of Marengo county, computing his term of office to date from the issuance of his commission; and said salary shall be a preferred claim against said fund.

Section 6. That the clerk of the circuit court of Marengo county shall be ex-officio clerk of the Marengo Law and Equity Court on the law side of its docket, and shall have all the powers and shall be required to perform all the duties, and shall be subject to all the penalties and liabilities in said court, as are imposed on and required of him in like cases in said circuit court; and he shall be entitled to the same fees for services in said court as he is entitled to for like services in the circuit court, as are now, or hereafter may be, allowed by law to the clerk of said circuit court. The judge of said court shall adopt a seal for the law side of the docket of the Marengo Law and Equity Court, which shall be kept in the custody and control of said clerk. The said clerk of this court shall have power and authority to grant all orders and do all things during term time of said court which the clerks of the circuit courts of the State may do in term time or vacation.

Vacancies;  
how filled.

Compensation of solicitor.

Clerk circuit court, ex-officio clerk; fees or.

Seal.

Power of clerk.

Register in  
chancery, ex-  
officio reg-  
ister.

Fees.

Seal.

Powers of  
register.

Section 7. That the register of the chancery court of Marengo county shall be ex-officio register of the Marengo Law and Equity Court on the equity side of its docket, and shall have all the powers and be required to perform all the duties, and be subject to all the liabilities and penalties in said court as are imposed on and required of him in like cases in the chancery court; and said register shall be entitled to the same fees for services in the said court as he is entitled to in the chancery court, as are now, or hereafter may be, allowed by law to the registers of the chancery courts in this State. The judge of said court shall adopt a seal for the equity side of the Marengo Law and Equity Court, which shall be kept in the custody and control of said register. And said register of said court shall have power and authority to grant all orders and do all things during term time of said court which the register of the chancery courts may do in term time or vacation. Provided, that said register, if a lawyer and otherwise qualified to practice law, may practice on the law side of said court but not on the equity side.

Clerk and  
register may  
appoint dep-  
uty.

Deputy's pow-  
ers.

Deputy of one  
may act for  
deputy of  
other.

Section 8. That the said clerk of the circuit court and the said register of the chancery court, who are respectively ex-officio clerk and register of said Marengo Law and Equity Court, may keep an office in the city of Demopolis, in the northern division of said court, and may appoint and keep a deputy in said office, who shall have charge of said office and keep the same open during regular business hours for the transaction of such business as may properly come before the clerk and register of said court; and the said deputy so appointed by the clerk and register of said court, respectively, shall have the same power and authority as said register and clerk, and may grant all orders and do all things, in the name of said clerk and register, as they could or should do in person, and shall be subject to the same duties and penalties as such clerk and register. Provided, that said clerk and register may, if they desire, appoint one and the same person to act as their deputy, but they are not required to do so.

Section 9. That there shall be two terms of said Marengo Law and Equity Court during each year. The first term of said court shall begin on the first Monday in September, 1909, and continue until the first Monday in January, 1910; and, thereafter, beginning with the first Monday in January, 1910, the regular terms of said court shall be as follows: The first term shall begin on the first Monday in January of each year and shall continue until the first Monday in July following; and the second term shall begin on the first Monday in July in each year, and shall continue until the first Monday in January following; provided, that during the regular terms of said court the judge thereof may adjourn the court and take such recesses from time to time as to him may seem proper.

Terms of court.

Regular and recess terms.

Section 10. That there shall be two divisions of said Marengo Law and Equity Court, to be known as the "Northern Division" and the "Southern Division," respectively. That the "Northern Division" of said court shall embrace that portion of the territory of Marengo county included within the following precincts of said county as now organized, towit: Macon precinct, Demopolis precinct, Old Spring Hill precinct, Dayton precinct and Faunsdale precinct. The "Southern Division" of said court shall embrace all the territory of Marengo county as now organized that is not embraced and included in the "Northern Division" of said court, as above set out. Court shall be held in the "Southern Division" of said court at the court house, in the town of Linden; and court shall be held in the Northern Division of said court in the city of Demopolis, in Demopolis precinct, at such place therein as the judge of said court may designate and select, provided that the city of Demopolis must provide and furnish, without cost and expense to Marengo county, suitable and necessary buildings in which to hold said court, and for the safe keeping of the prisoners and the records of said court and the necessary offices for the officers of said court.

Two divisions of court, northern and southern.

Precincts in "Northern Division."

Territory of "Southern Division."

Places of holding court.

Section 11. All actions, except actions for the recovery of land, or the possession thereof, or for a trespass thereto, must be brought in the division

Where suits instituted.

ion of said Marengo Law and Equity Court in which the defendant, or one of the defendants, resides, if such defendant has within either division of said court a permanent residence; all actions for the recovery of land, or the possession thereof, or for a trespass thereto, must be brought in the division of said court in which the land lies; and a foreign or domestic corporation may be sued in either division of said court where it does business by agent. A summons issuing contrary to the provisions of this section shall be abated on the plea of the defendant.

Time of holding court in "Southern Division."	Section 12. That the judge of said Marengo Law and Equity Court shall be required to hold court in the "Southern Division" of said court once during each month, except during the months of May and November, commencing on the first Monday of each month and continuing until the business of the court is disposed of; provided, that he shall not be required to hold court longer than two weeks during any one of the said months, except during the months of February and September, during which months court may be held for four weeks, if the business of the court require, and in the opinion of the presiding judge it is necessary. And that the judge of said Marengo Law and Equity Court shall be required to hold court in the "Northern Division" of said court once during each month, except during the months of February, May, September and November, commencing on the third Monday in each month; provided, that he shall not be required to hold court longer than two weeks during any one month. And provided further, that no jury terms of said court shall be held in the "Northern Division" of said court, but shall be held at the court house, in the town of Linden, and all cases arising or brought in the "Northern Division" of said court, wherein jury trials are required or demanded, shall be tried by jury at the said court house in the town of Linden; but nothing herein contained shall be deemed or taken to prevent settling of all pleadings and the making up of the issues in cases arising or brought in the "Northern Division" of said court at Demopolis, wherein jury trials are required or demanded.
Duration.	
Time of holding court in "Northern Division."	
Where held and duration.	



Section 13. That there shall be a grand jury <sup>Grand juries.</sup> for each term of said court, which shall be impanelled on the first Monday in September, and on the first Monday in February of each year, and shall continue in session until the business coming before it shall be disposed of, and such grand juries shall have power and authority, and it shall be their duty to investigate all matters and make all recommendations which grand juries of the circuit courts have authority to do or make. The judge of said court shall have authority whenever he shall deem it expedient, after any grand jury has been discharged, and before the summoning of the next succeeding grand jury, to be caused to be entered on the minutes an order requiring the sheriff to re-summon the persons who have last served as grand jurors in said court, which order the sheriff must immediately execute, and the persons summoned must attend and serve as grand jurors, and from the persons so attending, with such others as may be necessary to supply any deficiency (to be summoned and drawn as in other cases) a special grand jury must be organized, sworn and charged as in other cases, and it shall be the duty of <sup>May re-summon after dismissal.</sup> of such special grand jury to investigate such offenses as may be brought to their attention and proceed thereon as the regular grand jury. There shall be petit jurors for the trial of causes in said court, who shall be drawn, summoned and empanelled in the same manner as is now, or may be hereafter, provided by law for drawing and empanelling petit jurors for the circuit court of Marengo county; and venirees for grand and petit jurors shall be issued not less than <sup>Petit juries.</sup> twenty days before the day upon which said jurors are drawn to serve, and in the same manner as they are issued in and for said circuit court of Marengo county. And the judge of said Marengo <sup>Time of service.</sup> Law and Equity Court shall have the same power <sup>Powers of judge.</sup> and authority as the judge of the circuit court to order special venirees, and to summon, swear and empanel tales jurors; provided, that the judge of said Marengo Law and Equity Court shall have the power and authority to direct for what week or weeks of the term petit jurors shall be summoned, and direct which of the jury weeks of any

Trial by jury may be continued beyond the week of commencement.

Trial of capital cases.

General loan to apply to qualification, etc. of jurors.

Jury commissioners, duty as to this court.

Terms of grand and petit juries.

term shall be devoted to the trial of civil, and which to the trial of criminal cases, and may direct any jury case to be heard during any week of said court. And whenever any trial is commenced before a jury, and cannot be completed during the week in which the same was commenced, then such trial shall be continued into the next week, and until the case is ended; provided, the juries for the trial of capital cases shall be drawn, summoned and empanelled, as is now, or may hereafter be, provided for by law for drawing, summoning and impanelling juries for the trial of capital cases in the circuit court of Marengo county. All laws relating to the qualifications, competency, exemptions, objections to, challenging, drawing, summoning, organizing, swearing and arranging of grand and petit juries, talesmen, special petit juries in capital cases, and special grand and petit juries and regular juries at special terms, and all laws relating to indictments, excusing jurors, objections to jurors, grand and petit juries, and to the organization of grand and petit juries, and to proceedings against defaulting jurors, applying to the circuit court of Marengo county, shall apply to this said court as far as practicable and not in conflict with the provisions of this act. The Board of Jury Commissioners of Marengo county is hereby made the jury commission for this said court, and said Board of jury commissioners are hereby required, and it is hereby made their duty, to draw the necessary grand and petit juries for this said court, as is herein provided for, and to do and perform all things necessary and proper in the matter of drawing juries for this said court, except as is now or may hereafter be otherwise provided by law. There shall be at least two grand and petit jury terms of said court, the first to begin on the first Monday in February of each year, and may continue four weeks; and the second shall begin on the first Monday in September of each year, and may continue four weeks; provided, that the first grand and petit jury term of said court shall be held on the first Monday in October, 1909, and may continue four weeks. And it shall be the duty of the jury commission, charged

with drawing juries for this said court, to meet at the court house in Linden on the first Monday in January, and on the first Monday in August of each year, and draw the necessary grand and petit juries for the jury term of said court next following the day on which meeting is had, that is to say: At the meeting to be held in January, the juries for the jury term to be held in the February following shall be drawn; and at the meeting to be held in August, the juries for the jury term to be held in the September following shall be drawn; provided, that the first meeting of said jury commission for the purpose of drawing juries for said court shall be held on the first Monday in September, 1909, at which time the grand and petit juries for the jury term to be held in October, 1909, shall be drawn. But nothing herein contained shall prevent the judge of said court from holding special jury terms of said court, or prevent said judge from dispensing with juries drawn for any regular term of said court, when in his opinion the public good requires. All jury terms of said court shall be held, and all causes in which a jury trial is required or demanded (whether brought in the Northern Division or in the Southern Division of said court) shall be tried at the court house at Linden; provided that in all cases brought in the Northern Division of said court, in which a jury trial is required or demanded, the pleadings shall be settled and the issues made up before the judge in chambers at Demopolis.

Section 14. That in cases of misdemeanors the judge of said Marengo Law and Equity Court shall try the law and the facts without a jury, except when trial by jury is demanded by the defendant, in writing, filed with the clerk of said court, on his first appearance before the judge of said court; and in the event a trial by jury is so demanded, it shall be the duty of the judge to require the defendant to enter into bond with good and sufficient sureties, in such sum as said judge shall fix, conditioned for his appearance at the next term of said court at which a jury will be impanelled, unless he elect in the meantime to perform hard labor for the county, as provided

Jury commission to meet at Linden.

Judge may dispense with jury.

Place of holding jury terms.

Trial of misdemeanor by jury.

by law; and a failure of the defendant to demand a jury trial on his first appearance before the judge of said court, as herein provided, shall be deemed and held to be a waiver of the right to trial by jury.

Sheriff, duties of.

Section 15. That the sheriff of Marengo county shall be in person, or by deputy, required to attend said Marengo Law and Equity Court, preserve order and to execute his processes, and perform such other duties, in all respects as in the circuit and chancery courts of this State; and he shall furnish all such other subordinate officers as may be necessary to expedite the business of said court, the same as he is now required to do under the laws governing him as an officer of the circuit and chancery courts of the State. Said sheriff and his legally appointed deputies shall have all the powers, and shall perform all the duties, and do all the things during term time of said court that sheriffs and their deputies in this State may do in term time or vacation.

Powers.

Records of "Northern Division."

Section 16. That all records, books, papers, and files relating to or pertaining to the Northern Division of said court may be kept by the clerk, register and sheriff of said court in the city of Demopolis in some proper and secure place or at the court house at Linden; and all records, books, papers and files relating or pertaining to the Southern Division of said court shall be kept in the court house at Linden.

Southern Division.

When jury qualified.

Section 17. That whenever, for any cause whatsoever, a grand or petit jury shall be quashed in the Marengo Law and Equity Court, or have failed to be drawn and summoned, or, if drawn and summoned, shall fail to attend, the court may forthwith order the sheriff to summon from the qualified residents of the county a jury or juries to serve at any time which may be specified or ordered by the court; and such jury so summoned and impanelled shall be competent and valid to try all cases pending in said court and to perform all jury duties, as if said juries had been regularly drawn and summoned for said court.

Sales of real estate.

Section 18. That sales of real estate made under process issuing out of said Marengo

Law and Equity Court may be made on any day of the week or month except Sunday; provided that all sales under process issued out of the Southern Division of said court shall be made in front of the court house door in Linden, and all sales under process issued out of the said Northern Division of said court shall be made in front of the post-office door in the city of Demopolis. The same notices of sale must be given as in like cases in the circuit and chancery courts of this State.

Section 19. That, except as otherwise provided herein, when a person has been indicted in said Marengo Law and Equity Court, the circuit court shall not entertain jurisdiction of said case, and when such indictment has been found in the circuit court, the said Marengo Law and Equity Court shall not entertain jurisdiction of such case, except upon the transfer thereof into said court as herein provided for; it shall be the duty of the solicitor of the said Marengo Law and Equity Court to notify the circuit solicitor of all indictments and prosecutions commenced or pending in said Marengo Law and Equity Court.

When indictment found circuit court not to try case.

Clerk to certify to circuit court.

Section 20. That any person charged with the commission of a misdemeanor may be tried by the Marengo Law and Equity Court upon information, and the proceedings in such cases shall be the same as now provided by law for trials upon information in the county courts under the general laws of the State; provided, that the clerk of said court, and his deputies shall have, and they are hereby given, the right, power and authority to take and receive complaints and affidavits, and issue warrants of arrest, the same in all respects as the judge of said court may do, and as the judges of the county courts are authorized to do, and all such warrants of arrest shall be made returnable into and before the Marengo Law and Equity Court. And it is hereby made the duty of the clerk of said court and his deputies, when applied to, to issue a warrant of arrest as herein provided for, and before issuing the same to consult the solicitor of said court, or his assistant, if either of them be present or accessible, in order to ascertain if the facts deposed

may try misdemeanor cases.

Clerks, powers of.

Duties of

Appeal.	<p>to justify the issuance of the warrant of arrest. Appeals may be taken from convictions in said court under this section directly to the supreme court in the same way and in the same cases as such appeals are taken thereto from judgments of conviction in the circuit court of Marengo county. Any person prosecuted under this section may, if he desires a trial by jury, demand the same in writing, filed with the clerk of said court, on his first appearance before the judge of said court, and it shall then be the duty of said judge to require him to enter into bond with good and sufficient sureties, in such sum as the said judge shall fix, conditioned for his appearance at the next term of said court at which a jury will be impanelled unless he elect in the meantime to perform hard labor for the county as provided by law. It shall be the duty of the solicitor of said court to represent the State in all prosecutions under this section. The failure of the defendant to demand a jury trial on his first appearance before the judge of said court as herein provided, shall be deemed and held to be a waiver of the right of a trial by jury.</p>
Trial by jury.	
Bond required.	
Solicitor, duty of.	
Fees.	<p>Section 21. The fees of officers of the Marengo Law and Equity Court for services rendered (except the salaries of the judge and solicitor) and the compensation of jurors and witnesses therein, shall be the same as are now, or hereafter may be, allowed for like services in circuit and chancery courts of Marengo county, and shall be paid out of the Marengo Law and Equity Court fine and forfeiture fund hereinafter provided for; provided, that all witnesses attending said court must prove their attendance within five days after the trial of the cause in which they were subpoenaed or called to testify, otherwise their fees shall not be taxed as costs, nor shall they be recoverable against any party. And such officers and witnesses shall be subject to the same penalties and liabilities as when acting and attending under authority of the circuit and chancery courts of this State. The fees of bail-</p>
Witnesses, fees of.	
Penalties.	
Fees of bailiff.	<p>iffs in said court, as well as all fees in criminal cases in said court, due the clerk, sheriff and State witnesses, which become fine and forfeiture claims under the general law of the State, shall</p>

be registered against the Marengo Law and Equity Court fine and forfeiture fund, within the time and in the manner now prescribed for the registering of claims against the fine and forfeiture fund in the circuit court of Marengo county, and shall be paid for only out of the Marengo Law and Equity Court fine and forfeiture fund according to the order in which the same shall have been registered. And the expenses of said Marengo Law and Equity Court shall be paid out of the said Marengo Law and Equity Court fine and forfeiture fund in the same manner and on the same terms and conditions as the expenses of the circuit court of Marengo county are paid; provided, this section shall not apply to the payment of the compensation of grand and petit jurors in said court, and said grand and petit jurors shall be paid out of the general fund of Marengo county in the same manner and on the same conditions as grand and petit jurors of the circuit court of said county are paid.

Fine and forfeiture fund created.

Payments out of.

Payment of grand and petit jurors.

Proceedings civil cases.

Section 22. That in all civil cases at law commenced in said Marengo Law and Equity Court by summons and complaint, the defendant shall be required to appear and demur or plead to the complaint within twenty days after service of said summons and complaint upon them, whether such services be in term time or vacation; and in all cases at law commenced by attachment, the plaintiff must file his complaint within ten days after suing out the attachment, and the defendant must appear and demur, plead or file his motion thereto within twenty days after levy of the attachment and notice thereof given in writing to him as required by law in attachment cases in the circuit court; or in case the action is against a non-resident or other person upon whom service may be had by publication, within twenty days after service has been perfected by publication; and in all other cases at law the defendant must appear and plead or demur within twenty days after perfection of service upon him; and in all cases at law, if the defendant shall fail for twenty days after the perfection of service upon him, to appear and plead or demur, he shall be held to be in default, and at any time thereafter

a judgment by default may be entered against him on motion of the plaintiff; provided, however, that the court may, for good and sufficient cause shown, allow such judgment so obtained by default to be set aside, and demurrers or pleas to be filed on such terms as the court may impose; provided, that no application to set aside such judgment by default, unless it be for some reversible error committed in the rendition thereof, shall be entertained by the court, unless said application be accompanied by affidavit made by the defendant, his agent or attorney, to the effect that in the honest belief of affiant the defendant has a meritorious defense to the action. All motions to set aside judgments by default must be filed within thirty days after the rendition of such judgment.

Garnish-  
ments.

Section 23. That all garnishments issued out of the Marengo Law and Equity Court shall require an answer thereto within twenty days after service thereof; and upon failure of any garnishee to make an answer to the writ of garnishment within twenty days after service of same upon him, a judgment nisi may be entered against such garnishee on motion of the plaintiff if the plaintiff be otherwise entitled to a judgment nisi; and unless otherwise ordered by the court, all citations, rules, orders, writs of scire facias and notices of any kind issuing out of said court shall require the party against whom issued to appear, and plead, demur or answer thereto within twenty days after service thereof, or the perfection of service thereof by publication; and all cases at law whether begun by summons and complaint, attachment or otherwise, shall be deemed and taken to be at issue and triable upon the appearance and pleading of the defendant thereto, or if the defendant does not appear within the said twenty days herein prescribed, then at the termination of said twenty days.

Trial with or  
without jury.

Section 24. That in all civil cases at law in said Marengo Law and Equity Court the issues and questions of fact shall be tried by the court without the intervention of a jury, unless a jury be demanded by the plaintiff at the commencement of the suit, or by the defendant at the time he enters an appearance therein, or by any other



party interested in such suit at the time of his appearance; and such demand for a jury must be made by the plaintiff or the person occupying the position of plaintiff by endorsing said demand upon the summons and complaint, attachment, petition, claim or other paper filed by him for the purpose of instituting the suit, or when he intervenes without suing out process upon the pleading or paper filed by him for the purpose of presenting his claim or right in such suit; and such demand for a jury made by the defendant or other party occupying the position of a defendant, including garnishees, by endorsing such demand upon the demurrer, plea, answer or other paper first filed in the case by him; and when a case is transferred from the circuit court to this said court, it shall be tried by the court without a jury, unless at the time application is made for such transfer, a demand for trial by jury be made in writing and filed in the case; and said court shall without a jury, try all cases brought to said court by appeal or certiorari from justices of the peace and other inferior courts, unless a demand for trial by jury be made in writing and filed in the case by the appellant at the time he sues out such appeal and certiorari or the same is granted, or by the appellee within ten days after he had been served with notice of the granting of such appeal or certiorari; and any failure to demand a trial by jury as herein prescribed and directed shall be deemed and taken as a waiver of the right to have a trial by jury. Provided, that when a case has been tried by the court without a jury and a new trial has been granted by the court, or the case has been reversed and remanded on an appeal to the supreme court, either party may demand a trial by jury, and such demand being made not later than the first sounding of the docket containing said case thereafter. In all cases tried by the court without a jury, the court shall make a special finding of the facts therein, if so requested by a party to such cause at the time the trial is entered upon, and shall reduce such special finding to writing and file same in said case; and upon an appeal to the supreme court such special finding shall have no greater weight than

Proceedings  
in cases re-  
versed and  
removed on ap-  
peal.

In trial without jury Supreme court may render judgment from evidence.

other findings of said court made under the provisions of this act.

Section 25. That in the trial of any case without a jury in said Marengo Law and Equity Court, in addition to the questions which may be under existing laws presented to the supreme court for review, either party may also by bill of exceptions present for review in said court the conclusions and judgments of said court on the evidence, and the same shall be reviewed by said supreme court without the indulgence of any presumption in favor of the court below upon the evidence, and if there be error, said supreme court shall render such judgment in the case as the court below should have rendered, or shall reverse and remand the cause for further proceedings as to said supreme court may seem right and proper.

Pleadings and judgments rendered them in vacation appeal.

Section 26. That in all civil cases at law in the said Marengo Law and Equity Court, the judge thereof may set down any case for hearing on the pleadings alone, and render judgment thereon in term time or during vacation, and from such judgment or ruling on the pleadings an appeal shall lie to the supreme court, to be taken within thirty days after such judgment or ruling is rendered or made; but nothing herein contained shall prevent such judgment from being assigned as error upon an appeal taken to said court after the final determination of said case, if an appeal shall not have been taken under this section.

Misdemeanors returned by justice of peace.

Section 27. That all misdemeanors returned by municipal, justices of the peace or other inferior courts, or appeals from such courts, to the said Marengo Law and Equity Court shall be tried upon the complaint of the solicitor of said court filed in such cases, which complaint shall be in the form substantially as now required by law of circuit solicitors, and which complaints shall be subject to amendment.

Jurisdiction supreme court.

Section 28. That the supreme court shall have appellate and supervisory jurisdiction over said Marengo Law and Equity Court, and cases at law and in equity may be appealed or removed to

said court in the same manner and under the same rules and regulations, not herein otherwise provided, as cases are appealed or removed there-to from the circuit and chancery court of the State, and the appellate or supervisory jurisdiction of said supreme court over the Marengo Law and Equity Court shall be exercised over said court and the judgments thereof in the same manner as in like cases over the said circuit and chancery courts and the judges and chancellors thereof, provided, that no appeal can be taken from said Marengo Law and Equity Court to either the circuit or chancery court of Marengo county.

Section 29. That all original and mesne pro-<sup>When process</sup>cesses issued out of said Marengo Law and Equi-<sup>executed.</sup>ty Court shall be executed instanter, and, unless otherwise provided by law, all such original and mesne processes, including notices, citations and writs of scire facias, shall be returnable immediately upon the execution thereof by the proper officers; and all executions and writs of fieri facias, writs of possession and other like writs shall be returnable ninety days after the issuance thereof.

Section 30. That all the civil cases brought<sup>Civil cases on</sup>by appeal or certiorari from municipal, justices<sup>appeal.</sup>of the peace or other inferior courts to the Marengo Law and Equity Court shall stand for trial when reached on the regular call of the docket at any time after twenty days notice of the taking of the appeal shall have been given to the appellee as required by law.

Section 31. That final judgments and decrees<sup>Final judgments and decrees.</sup>rendered in said Marengo Law and Equity Court shall, after the expiration of thirty days from their rendition, be completely beyond the control of said court, as if the term at which they were rendered had ended and expired at the termination of thirty days; provided, that nothing herein contained shall prevent parties from applying<sup>Rehearings.</sup>for new trials and rehearings within said thirty days, or destroy or change the effect of motions for new trials or rehearings when so made, or shall prevent parties from applying to said court for a rehearing under the statutes authorizing applications for rehearings in the circuit courts

of the State, or shall prevent said court from re-trying any case under section 5371 of the Code of 1907, or shall prevent said court from exercising any power or jurisdiction conferred upon the circuit and chancery courts touching final judgments and decrees.

Change of  
venue.

Section 32. That the venue in any cause in said Marengo Law and Equity Court may be changed to another than Marengo county under the same rules, regulations and conditions in the same cases and in the same manner as changes of venue are had in the circuit courts of this State, and shall be governed in all respects by the same laws which govern in such matters in the said circuit courts.

Appeals.

Section 33. That appeals may be taken to said Marengo Law and Equity Court from any municipal court, justice of the peace court, or other inferior courts of Marengo county, in all cases where and when appeals could be taken under the law now or hereafter existing from such courts to the circuit courts, and they shall be taken in the same manner; and mayors and intendents of municipal courts, justices of the peace and notaries public ex-officio justices of the peace and judges of any inferior courts in Marengo county may bind any defendant over to the Marengo Law and Equity Court to appear and answer any indictment for any charge to be preferred by any grand jury of said court, in the same cases and in the same manner as such officers now bind such defendants over to the circuit court.

Judge to draw  
and summon  
juries on peti-  
tion.

Section 34. That the judge of said Marengo Law and Equity Court may cause to be drawn, summoned, sworn, and impanelled grand or petit juries for said court when petitioned in writing by a majority of the attorneys practicing in said court, or when in his opinion the docket or the public good may require it.

Failure of  
judge to at-  
tend.

Section 35. That if the judge of the said Marengo Law and Equity Court shall fail to attend the commencement of any term of said court, or the term of said court should not begin on the day provided for the commencement thereof from any cause whatsoever, the said court shall stand adjourned from day to day until the judge

thereof, or special judge herein provided for, does attend, or until such cause be removed.

Section 36. That the solicitor of said Marengo Law and Equity Court may appoint and have an assistant solicitor, who shall have the same authority and perform the same duties and be subject to the same penalties as the solicitor of said court, provided, that the compensation of said assistant solicitor shall be paid by the solicitor out of the salary allowed to him under the provisions of this act, and said assistant solicitor shall not be entitled to receive any other compensation out of the solicitor's fees accruing in said court, and if the solicitor of said court, or his assistant solicitor shall fail to attend and prosecute any cause in said court which he is herein required to prosecute, or for any cause be disqualified to prosecute any case, the judge presiding in said court shall appoint a solicitor pro tem, who shall perform all the duties of the solicitor of said court during such solicitor's absence or disqualification, and such appointee solicitor shall receive as compensation for his services five dollars per day for each day that he may be engaged in the performance of the duties of solicitor, said sum to be paid out of the Marengo Law and Equity Court fine and forfeiture fund, herein provided for on his order.

Solicitor may appoint assistant.

Salary.

Duty of assistant.

Section 37. Chapter fifty-nine (59) of the Code of 1907, relating to bills of exceptions is hereby adopted and made a part of this act.

Bills of exception.

Section 38. That all criminal cases now or hereafter pending in the county or circuit courts of Marengo county may, on the agreement of the defendant or his attorney of record and the solicitor of the county or circuit court, be transferred to the said Marengo Law and Equity Court for trial, and said cases shall be placed on the docket of the division of said court wherein the offense charged was committed; and that all civil cases now or hereafter pending in the circuit and chancery courts of Marengo county, may, on agreement of all parties thereto or their attorneys of record, be transferred to said court for trial. All the agreements herein provided for must be in writing and must be filed with the

Criminal cases.

**Duty of clerk.**

clerk of the circuit court or the register of the chancery court, respectively, as the case may be, whereupon such officers must certify and transfer such cases to the proper docket of said court, and must file therein all original papers in said cases, together with certified copies of all docket and minute entries in said cases, whereupon said Marengo Law and Equity Court shall acquire and have exclusive jurisdiction of and over all such transferred cases.

**Issue of execution.**

Section 39. That after the expiration of ten days from the rendition of any judgment or decree in said Marengo Law and Equity Court, unless such decree or judgment shall otherwise direct, the clerk or register of said court as the case may be, unless ordered in writing entered upon his order book to be kept by him for such purposes, not to do so by any plaintiff or complainant or other person entitled to its issuance, or their attorneys of record, shall issue execution in term time or vacation on such judgment or decree returnable within ninety days after its date, and in like manner upon an order to do so, said register shall execute any order or decree of sale of real estate or personal property for which a decree has been rendered in equity in said court, after complying with the rules governing registers in the chancery courts of the State for the sale of real estate and personal property so far as the same may be applicable to this court; provided, that nothing herein contained shall prevent any party from making affidavit and having execution issued immediately as provided by law; and provided, further, that nothing herein contained shall prevent the superseding of an execution after the issuance of the same upon complying with the law governing the superseding of executions issued out of the circuit courts of the state.

**Fine and forfeiture fund.**

Section 40. That there is hereby created and established in the treasury of Marengo county, and the treasurer of Marengo county is hereby required to keep a separate fund to be known and designated as the Marengo Law and Equity Court fine and forfeiture fund, which must be kept separate and apart from the other funds of said county; and all funds shall be placed to the

credit thereof and shall be used and paid out in the manner and for the purpose herein designated and specified, and in no other manner and for no other purpose.

Section 41. That all fines and forfeitures accruing in said Marengo Law and Equity Court shall be payable in money only and shall be collected in the same manner as fines and forfeitures are collected in the circuit court of Marengo county and shall be paid to the clerk and register of said court, as the case may be, and shall be paid by them to the said treasurer of said county; and said fines and forfeitures of the Marengo Law and Equity Court, together with Marengo county's portion of the hire of convicts hereinafter sentenced by said court to hard labor for the county and received by said treasurer of Marengo county for the hire of said convicts, shall be placed to the credit of said Marengo Law and Equity Court fine and forfeiture fund, and said clerk and register shall make reports quarterly on the first day of July, October, January and April of each year, commencing on the first day of October, 1909, which said report shall be made in writing, under oath, to the judge of said court and to the treasurer of Marengo county, and said report shall show the number of convictions, the names of the persons convicted, and the offense for which convicted, the fine and sentence imposed, the number of forfeitures taken, against whom and the amount thereof, together with the names of the parties plaintiff and defendant in civil cases at law and in equity, and the names of the defendants in criminal cases, and the amount of solicitor's fees taxed, together with the amount and items in each case and the name of each defendant and the disbursement of said solicitor's fees which may have been made and accrued in said during the preceding quarter, and shall at such time pay over to the treasurer of Marengo county all such moneys coming from any of the above mentioned sources which shall remain in their hands and all such moneys shall be placed by said treasurer to the credit of said Marengo Law and Equity Court fine and forfeiture fund.

Fines payable  
in money.

Hire of convicts.

Report of  
clerk and register.

Records.

Appeal.

Section 42. That upon the appearance of any defendant in civil cases commenced in said Marengo Law and Equity Court by summons and complaint, or attachment, or which has been transferred into said court from the circuit or chancery court, or which has been brought into said court by appeal, certiorari, or otherwise, said case shall be set down for hearing and settling of the pleadings in said case, and after the pleadings shall have been settled such case must be tried upon the issue which has been made and formed therein; provided, that the presiding judge may allow amendments to the complaint or other pleadings, after the same has been settled, when in his opinion the ends of justice require it.

Stationery.

Section 43. That it shall be the duty of the clerk and the register of said Marengo Law and Equity Court to procure the necessary and suitable books, records, files, stationery and furniture for said court and for the preservation of the books, records and files pertaining to the causes on their respective sides of the dockets of said court; to be paid for out of the said Marengo Law and Equity Court fine and forfeiture fund, herein provided for, on their respective orders as provided by law, and after the same have been approved by the board of county commissioners of Marengo county.

Jurisdiction  
of court.

Section 44. That all laws of a general nature now or hereafter in force in this state giving jurisdiction to the circuit, chancery and city courts shall be deemed and held to extend and apply to the said Marengo Law and Equity Court, although said court may not be therein mentioned or referred to, unless the contrary shall be expressly provided in such law, or unless such law be in conflict with the provisions of this act, or the rules of procedure and practice which the judge of said court may have adopted under the authority given him in this act.

Fees or so-  
licitor in  
criminal cases.

Section 45. That in all criminal cases in which conviction is had, the same solicitor's fees shall be taxed up and collected as are taxed up and collected in the circuit courts of this state, and said fees shall be collected in the same manner as in the circuit courts, and when collected



shall be placed to the credit of Marengo Law and Equity Court fine and forfeiture fund herein provided for.

Section 46. That all cases at law or in equity, brought in the Northern Division of said Marengo Law and Equity Court, except those cases in which a jury is required or remanded, shall be tried by the judge of said court in the city of Demopolis, at the place designated and selected by the judge of said court for holding court in said Northern Division; and in all cases at law or in equity in which a jury trial is required or demanded, brought in the Northern Division of said court, the issues of fact shall be determined before a jury at the court house in Linden, but the pleadings shall be settled and the issue made up before the judge of said court at the place designated by said judge for holding court in the Northern Division of said court.

Section 47. That all criminal cases, growing out of offenses committed within the territory embraced in the Northern Division of said court, in which a jury trial is not required or demanded, shall be tried before the judge of said court at Demopolis; but all criminal cases growing out of offenses committed within the territory embraced in the Northern Division of said court, in which a jury trial is required or demanded, and all criminal cases growing out of offenses committed within the territory embraced in the Southern Division of said court, shall be tried at the court house in Linden.

Section 48. That on the first day of January of each year it shall be the duty of the treasurer of Marengo county to transfer from the Marengo Law and Equity Court fine and forfeiture fund and place to the credit of the general fine and forfeiture fund of Marengo county, all funds to the credit of said Marengo Law and Equity Court fine and forfeiture fund, after paying all claims that may be registered against the same at that time.

Section 49. That if any section or provision of this act shall be held to be void or unconstitutional, it shall not destroy the validity or constitutionality of any other section or provision which is not in and of itself void and unconstitutional.

Place of trial  
of cases in  
"Northern  
Division."

Trials in  
Southern Divi-  
sions.

Treasurer's  
duty as to fine  
and forfei-  
ture fund.

Section de-  
clared void  
not to effect  
other sections

**Repeal.**

Section 50. That all laws, general, special or local, in conflict or inconsistent with the provisions of this act, be, and the same are, hereby repealed.

Approved Aug. 26, 1909.

No. 104)

AN ACT

(H. 337

To abolish the county court of Morgan county, Alabama, and to annul its jurisdiction, which court is provided for in and by article 3, chapter 142 of the Code of Alabama, and to provide for the transfer of all of the causes of every kind and description pending in said court at the time of the approval of this act, together with all papers, records, processes and everything to such causes pending in said court, by the clerk thereof to the Morgan county law and equity court. Be it enacted by the Legislature of Alabama,

County court  
Morgan county  
abolished.

1. That the county court of Morgan county, Alabama, provided for in and by article 3, chapter 142, of the Code of Alabama 1896 be, and the same is hereby abolished and its jurisdiction annulled.

Transfer of  
cases to Mor-  
gan county  
law and  
equity court.

II. It is hereby made the duty of the clerk of the said county court to transfer to the Morgan county law and equity court all cases of every kind and description pending in said county court at the date of the approval of this act, together with all papers, records, processes and everything pertaining to such causes pending in said county court and said causes so transferred to the said Morgan county law and equity court shall stand for trial in said court as if originally filed or begun therein, and the said Morgan county law and equity court shall have the same jurisdiction and powers in regard to said causes, and all papers, records, processes, and everything pertaining to such causes, as the said county court now has in reference thereto.

Cases on ap-  
peal in su-  
preme court.

III. All causes now pending in the supreme court of Alabama, on appeal from said county court of Morgan county, shall if reversed and

remanded, be remanded to said Morgan county law and equity court and shall thereafter stand in said court as if originally brought therein; and all causes pending in said supreme court on appeal from said county court, if affirmed, shall be proceeded with in said Morgan county Law and Equity Court as if originally brought therein.

IV. This act shall go into effect immediately <sup>Effective.</sup> upon its approval by the governor.

Approved Aug. 25, 1909.

No. 226) AN ACT (H. 313

To provide for holding terms of the circuit court of Coffee county twice each year at both Elba and Enterprise in said county; to define the jurisdiction of the court held at each place; to provide for transferring cases from one place to the other; to repeal all laws of a local character in conflict with or repugnant to this act.

Section 1. Be it enacted by the Legislature of Alabama, That on and after the passage of this act, the circuit court for Coffee county, Alabama, shall be held twice each year at both Elba and Enterprise in said county. <sup>Court to be held twice each year.</sup>

Section 2. That the line now defining the western line of the territorial jurisdiction of the court now held at Enterprise in said county be <sup>Define territorial jurisdiction.</sup> and the same is designated as the dividing line between the two courts. That portion of the

county lying east of said line shall be known as Enterprise division and that west as the Elba division. That in all cases of which the circuit court of said county has or may hereafter have jurisdiction, civil suits or proceedings shall be <sup>Where suits instituted.</sup> instituted in that division in which the defendant resides, or in which one of the defendants resides if there be more than one, or in which the

land involved in litigation is located, or if the land is located partly in both divisions, then in that division in which one of the defendants resides, or if the defendant in any cause is a non-resident then in that division in which the prop <sup>Where suits instituted when land partly in each territory.</sup>

**Trial of criminal cases.**

erty attached or seized is located or the cause of action arose; in criminal cases the defendant shall be tried in that division in which the crime or offense was committed. If any civil cause or proceeding is brought contrary to the above provisions or if any criminal case is made returnable to the division in which the crime or offense was not committed, then such defendant or any one of them, if more than one in the same case, may in vacation make application to the clerk of the court to have his case transferred to the proper division, and upon the filing of such application, such clerk shall transfer the said case, together with the file of papers therein, and if such application is made in term time, the court shall make an order transferring the same. That the court at each place as also the grand jury impanelled at each place shall have jurisdiction co-extensive with the county.

**Grand jurors drawn from county at large.**

Section 3. That grand jurors for the terms of court held at each of the places named shall be drawn from the county at large as now provided by the general laws of the State; that petit jurors shall be drawn from the particular division in which the court is to be held, and in every other particular the manner of selection and drawing shall be as under the general laws of the State regulating the same.

**Repeal of conflicting laws.**

Section 4. That all laws of a local character in so far as they conflict with or are repugnant to the provisions of this act be and the same are hereby repealed.

Approved Aug. 31, 1909.





## LOCAL, PRIVATE AND SPECIAL LAWS.

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No. 2)                      AN ACT                      (H. 80                      1909.

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To repeal an act entitled "An Act to provide for the working of the public roads of Hale county, Alabama, for levying a tax for the same and how same shall be expended," approved August 7, 1907.

Be it enacted by the Legislature of Alabama, ~~Repeal.~~  
That an act to provide for the public roads of Hale county, Alabama, for levying a tax for the same, and how same shall be expended, which was approved August 7, 1907, be and the same is hereby expressly repealed. This act to be effective upon its approval.

Approved August 13th, 1909.

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No. 11)                      AN ACT                      (S. 91

To amend an act entitled an act to regulate the fine and forfeiture fund of Barbour county, and the disposal of moneys arising from fines, forfeitures and convict labor. Approved February 6, 1895.

Section 1. Be it enacted by the Legislature <sup>Act of 1895</sup> of Alabama, That section one of an act entitled <sup>amended.</sup>  
"An act to regulate the fine and forfeiture fund of Barbour county, and the disposal of moneys arising from fines and forfeitures and convict labor, approved February 6, 1895, be amended so as to read as follows: Section 1. Be it enacted by the Legislature of Alabama, That it shall be the duty of the board of revenue of Bar- <sup>Duty of</sup> <sup>Board of</sup> <sup>Revenue.</sup>bour county, immediately after the passage and approval of this act, to give notice by advertisement in some newspaper published in the county and also by posting a notice at the court House

Claims against fine and forfeiture fund. notifying all persons holding claims registered and unregistered and entitled to registration as now provided by law, against the fine and forfeiture fund of said county, to register the same with the county treasurer within ninety days after the first insertion of said advertisement, and if not so registered or re-registered, said claims shall be forever barred, and all claims hereafter accruing against said fund must be registered or re-registered within sixty days, or be forever barred. Provided, the said court of county commissioners may at their discretion order payment of witness fees (mileage and per diem) hereafter accruing (registered or entitled to registration) against said fund at such reduced rates, as may hereafter be provided by law for witness fees and claims in preference to accepting bids which may be made for claims against the fine and forfeiture fund as provided in section 9 of said act.

County commissioners may order payment of witness fees at reduced rates.

Section 2 of act amended. Section 2. Be it further enacted, That section 2 of said act be amended so as to read as follows : Section 2. Be it further enacted, That all such claims as have been heretofore registered shall be re-registered preserving the order of previous registration as provided by section one of said act, and if not so re-registered said claims shall be forever barred.

Claims re-registered.

Repeal. Section 3. Be it further enacted, That all laws and parts of laws, general or special, in conflict with this act be and the same are hereby repealed.

Approved Aug. 18, 1909.

No. 15)

AN ACT

(H. 144

To create the office of county solicitor for Conecuh county, provide for the election of such solicitor by the qualified electors of said county, and to prescribe his qualifications and duties and fix his compensation. Be it enacted by the Legislature of Alabama.

Office created, solicitor's qualifications.

1. That the office of county solicitor for Conecuh county is hereby created. Such solicitor shall be learned in the law, and shall. at the



time of his election, be a qualified elector and a resident citizen of said county of Conecuh, and shall remain so during his continuance in office.

2. That at the general election held in said county of Conecuh on the first Tuesday after the first Monday in November, 1910, and every fourth year thereafter, the qualified electors of Conecuh county shall elect said county solicitor, whose term of office shall be four years, the same beginning on the first day of December after his election, and he shall hold such office until his successor is elected and qualified. Vacancies in the office of such county solicitor shall be filled by appointment of the circuit solicitor, the appointee to hold office for the unexpired term and until his successor is elected and qualified. Elective, term, vacancies, etc.

3. That it shall be the duty of the county solicitor of said county to represent the State in all cases coming before the county court of said county, to represent the State in all preliminary proceedings, in felony cases, and in all habeas corpus cases where the petitioner is charged with the commission of felony, provided, such preliminary and habeas corpus proceedings are held at the County site. And said county solicitor shall also perform and discharge the duties now required of deputy solicitors under the general laws of the State, and shall be subject to the same liabilities and penalties in respect thereto as are now, or may hereafter, be imposed by law on such solicitors. Said county solicitor shall not defend in any criminal case in any court in said county during his term as such solicitor, and if he has a law partner such partner is hereby prohibited from defending criminal cases in said county. Duties.

4. That in such conviction in said county court there shall be taxed against the defendant the same fees as are now taxed by law in similar cases for solicitors fees in the criminal cases in the circuit courts of the State, and said fees, when collected, shall be paid to the county treasurer of said county, who shall make a record of the same and shall keep such fees separate and apart from all other funds belonging to said county, and shall not pay out the same other than as hereinafter provided. Solicitor can not defend. Costs; how taxed; accounts kept rate.

Salary, how  
paid.

5. That such solicitor shall receive as compensation for his services one thousand dollars per annum, to be paid to him in monthly installments by the county treasurer of said county out of the fees taxed against defendants, as provided for in the last preceding section of this act. Provided that the fees so taxed and paid to the county treasurer of said county during the year shall amount to one thousand dollars, but if they do not, then and in that event, said solicitor shall only receive the fees that have been so taxed and paid to the county treasurer of said county. If at the end of the year, the fees so taxed and paid into the county treasury of said county shall exceed one thousand dollars, the excess shall be transferred to and become a part of the fine and forfeiture fund of said county, and shall be paid out in the same manner as other moneys belonging to said fund are paid out.

Solicitor,  
pro tem.

6. That in the event the county solicitor is temporarily absent or disqualified for any cause the Judge of the county court of said county shall appoint a solicitor pro tempore, who shall have and exercise all powers of the county solicitor while so acting.

Oath.

7. That said county solicitor before entering upon any of the duties of his office shall take and file the oath of office required of circuit solicitors.

Repeal.

8. That all laws and parts of laws in conflict with the provisions of this act, be, and the same are, hereby repealed.

Approved August 19, 1909.

No. 16)

AN ACT

(H. 185

To authorize and direct the court of county commissioners of Hale county to pay for advertising the notice of local bills introduced in the legislature for said county out of any money in the treasury of the county not otherwise appropriated, when the bill applies to the entire county, and is published by the authority and request of a member of the Legislature from said county. And this act is to apply to and include all local bills for Hale county that were enacted into law dur-

ing the session of 1907 and specifically the Hale County Road Law, this present bill, and no other. Be it enacted by the Legislature of Alabama:

1. That the court of county commissioners of Hale county be authorized and directed to pay for advertising the notice of local bills introduced in the Legislature for said county out of the money in the treasury not otherwise appropriated when the bill applies to the entire county, and is published by the authority and request of a member of the Legislature for said county. <sup>Payment for publication of notice of local bills.</sup>  
 This to apply to and include all local bills for Hale county enacted into law at the session of 1907, and specifically the Hale County Road Law, this present bill and no other. <sup>Applies to all local bills, county road law especially.</sup>

Approved August 19, 1909.

No 18)

AN ACT

(H. 146

To better provide for the payment of the fees of State witnesses in criminal cases in the circuit and county courts and before the grand jury of Choctaw county, to make appropriations therefor, and to fix the amount of such fees.

Section 1. Be it enacted by the Legislature of Alabama, That there is hereby appropriated out of the general fund of Choctaw county, one thousand (\$1000.00) dollars annually, to be <sup>\$1,000 appropriated from general fund Choctaw county; purposes.</sup> used for the payment of the fees of State witnesses in criminal cases in the circuit and county courts and before the grand jury, and the commissioners court of said county are required to set aside said sum each year from the general fund of said county to be used or so much thereof as may be necessary to be used only for the payment of witnesses fees that accrue after the passage of this act. Provided, that none of said amount of one thousand dollars shall be paid out, except said payment be made direct to the witness to whom the witness certificate was issued and who is at the time of payment the owner of said certificate. <sup>Payment direct to witness.</sup>

Witness certificates  
taxed against  
defendant  
upon conclusion.

Section II. That the amount of all State witness certificates issued in any case must on conviction of the defendant, be taxed against the defendant and collected of him as other costs, as is provided by law, and shall be paid by the officer collecting the same into county treasury to the credit of the general fund.

Fine and forfeiture fund;  
money continued to be  
paid, etc.

Section III. All fines and forfeitures and other moneys that are now required to be paid into the fine and forfeiture fund of said county, or that belong to said fund or constitute a part of the same, shall continue to be paid into said fine and forfeiture fund and shall be used to pay off and discharge outstanding claims against said fund and claims accruing against said fund in the manner as now provided by law, provided, that the commissioners court may when there is a surplus in the fine and forfeiture fund over and above the registered claims registered against said fund, make an order transferring such surplus to the general fund to be used in the payment of witness certificates issued to State witnesses.

Claims against  
fine and forfeiture fund.

Section IV. All claims and items of costs which under existing laws, are made claims against the fine and forfeiture fund of said county, shall continue to be claims against said fund as they accrue, and shall be paid in the manner now provided by law, except the witness fees paid out of the money appropriated by this act, and this act shall not be held to repeal any existing law regulating said fund or the payment of claims against the same.

Fees the same.

Section V. That the fees allowed State witnesses shall be the same as now provided or may hereafter be provided by law.

Fees in excess of appropriation;  
how paid.

Section VI. That all witness fees in excess of the amount hereby appropriated and not paid in any other way shall be claims against the fine and forfeiture fund of said county, and shall be paid out of the same in order of their registration.

Effective.

Section VII. This act shall go into effect and become operative, on and after the first day of January, 1910.

Approved August 19, 1909.

No. 22)

AN ACT

(H. 240)

To repeal so much of an act entitled "an act to provide for more efficient working of the public roads in Greene, Lowndes, and Perry Counties, and appointment of district road inspectors for Greene, Lowndes, and Perry counties, approved February 12th, 1897, as relates to Lowndes county. Be it enacted by the Legislature of Alabama.

1. That so much of an act entitled "an act to provide for more efficient working of the public roads in Greene, Lowndes, and Perry counties, and appointment of district road inspectors for Greene, Lowndes and Perry counties, approved February 12th, 1897, so far as it relates to Lowndes county be and the same is hereby repealed. Act so far as relates to Lowndes county repealed.

2. That all laws and parts of laws in conflict with this bill be and the same are hereby repealed. Repeal.

Approved August 19th, 1909.

No. 23)

AN ACT

(H. 242)

To repeal an act entitled "an act to secure better public roads and bridges in Lowndes county, approved February 17th, 1885." Be it enacted by the Legislature of Alabama:

1. Than an act entitled "an act to secure better public roads and bridges in Lowndes county, approved February 17th, 1885," be and the same is hereby repealed. Act repealed.

II. All laws and parts of laws in conflict with this bill be the same are hereby repealed.

Approved August 19th, 1909.

No. 24)

AN ACT

(H. 241)

To repeal so much of an act entitled "an act to better provide for the working and maintenance of the public roads in Chilton, Lamar, Lowndes, Clay and Cleburne counties, ap-

proved February 18th, 1899," as relates to Lowndes county. Be it enacted by the Legislature of Alabama.

Act approved  
Feb. 1899, re-  
pealed.

1. That so much of an act entitled "an act to better provide for the working and maintenance of the public roads in Chilton, Lamar, Lowndes, Clay, and Cleburne counties, approved February 18th, 1899," so far as it relates to Lowndes county be and the same is hereby repealed.

Repeal.

2. That all laws and parts of laws in conflict with this bill be and the same are hereby repealed.

Approved August 19th, 1909.

No. 33)

AN ACT

(S. 58)

To provide for the construction, maintenance, improvement and protection of the public roads and bridges of Macon county, Alabama, and to provide for a special road tax therefor; also for the purchase of implements, teams and other things necessary in the construction, and improvement of the same; to pay for the same either out of the general fund for the county or the special road fund. Providing for the appointment by the commissioners court of said county of a road superintendent or superintendents and surveyor, fixing their pay, defining their duties and conferring special powers on the commissioners court of said county. Providing further the method of employing hands and how certain parties may be required to take out a license for the use of said public roads, providing the method of appointing apportioners and overseers and defining their duties and how they may be excused from serving as such. Defining the road year and those liable to road duty, the time they may be required to work, prescribing the manner in which they may pay in lieu of work to the tax collector of said county, and his duty as to same, and the method of warning hands and defining those who are exempt from road duty. Be it enacted by the Legislature of Alabama:

Section 1. This act and the general laws of the State not in conflict with this act, shall constitute the law for Macon county, on the subject of public roads and bridges. General law not in conflict applies.

Section 2. That it shall be the duty of the court of county commissioners of Macon county, Alabama, to purchase all such horses, mules, live stock, teams, harness, machines, wagons, scrapes, plows, tools, tents, implements, material, and any other paraphernalia or things as it may deem necessary in the construction, working or maintenance of the public roads and bridges in Macon county, Alabama, and they are hereby authorized to appropriate out of the general funds in the county treasury, from time to time, such amounts as the said court may determine as will not interfere with defraying the necessary and general expenses of the county for the purpose of paying for the same, and also for the erection, equipping, maintenance and repair of said public roads and bridges of said county and for payment of all just claims against said county for said purpose. And said court may make such provisions for the care of all live stock and other property belonging to the county, used in the working of the roads as it deems fit. And said court may, from time to time, sell any property purchased or used in and about the working of said public roads, and said court shall have the right to employ such hands as may be required or deemed necessary in the working, maintaining and building of the roads and bridges of said county. Duty of county commissioners as purchase of teams, etc. Authorized to appropriate funds, for payment, etc.

Section 3. The court of county commissioners shall, after the passage of this act or as soon as practicable, appoint one or more superintendents for said county, who shall have control and supervision of all the public roads of such district so set apart to him by the said court of county commissioners, as to the manner of working, repairing and maintaining the same under the direct control and supervision of the said court of county commissioners, and who shall hold his office for a term of one year unless removed by the commissioner's court. Supt's to be appointed.

Section 4. That said superintendent or superintendents, shall before entering upon the duties Qualification of Supts.

of said office, qualify by taking and filing the statutory oath of office and giving bond for the faithful performance of the duties of said office, payable to Macon county in the sum of two thousand dollars with sureties thereon, to be approved by the judge of probate of said county, which oath and bond shall be recorded in the office of the judge of probate.

Salary.

Section 5. That the said superintendent or superintendents shall receive a salary, not to exceed five hundred dollars each, per annum, to be determined by the court of county commissioners before he enters upon the duties of his office,

How paid.

to be paid monthly, by a warrant to be drawn by the judge of probate, on the special road fund in the county treasury. Said superintendent

Removal from office.

or superintendents may be removed from office at any time whenever in the opinion of the court of county commissioners it is best to do so, at which time, his salary shall cease. That if

Vacancies.

the office of superintendent shall become vacant by death, resignation, removal or otherwise, the commissioner's court at the next regular or called meeting thereafter, shall appoint a suitable person to fill the unexpired term.

Duties of Superintendents.

Section 6. That the duties of the said superintendent or superintendents of public roads in said county shall be: (1) To have control and supervision of the overseers, and public roads of said county and direct the manner of working said roads, subject to such rules and directions as may have been previously made and given him by the said court of county commissioners of said county. (2) To remove any overseer who

May remove overseer.

shall fail or refuse to perform his duties or comply with any reasonable order or direction of said superintendents, and to appoint another in his place, and fill all vacancies in the office of overseer. (3) To work and improve the roads

Road work, notice to overseers.

of Macon county as he may be directed by the court of county commissioners. Before beginning work on any road in any locality in the county, if deemed necessary by the superintendent, he shall give the overseer of said road five days notice of his intention to begin work, whereupon the overseer of said road shall call out for road duty all persons subject to road duty on



said road and said overseer and road hands shall meet the superintendent at the place designed in the notice given by the superintendent to said overseer. The overseer shall see that each hand <sup>Overseers du-</sup> apportioned to a public road or liable to work <sup>ties.</sup> thereon has had the notice required by law and that all persons liable to road duty perform their equal share of services and in the event any person who has been warned to work on a public road has a sufficient excuse for not working at the appointed time, the superintendent or overseer shall see that each person perform his equal share of road services at other times or places.

He shall also in conjunction with the overseer <sup>Supt., must</sup> make a memorandum of all defaulters and see <sup>make memo-</sup> that the overseer and persons liable to road duty <sup>randum of de-</sup> perform all the duties required of them by law, and especially report to the court of county commissioners and grand jury at the next session the names of all overseers who fail to comply with the law requiring them to prosecute defaulting road hands. (4) To contract for building or repairing small bridges, culverts and causeways with the permission and consent of the commissioners court and contract for such timber and material as may be necessary for the building or repairing of said small bridges, culverts and causeways and contract for the erection of mile posts and sign boards. (5) To dismiss from <sup>Dismiss</sup> service on the road any hand whether working <sup>bonds.</sup>

for himself or as a substitute, who shall fail or refuse to do good and sufficient work, or who may be intoxicated, or who shall use any vulgar, profane or obscene language, after having been requested by the superintendent or overseer not to do so, or who shall refuse to obey any reasonable order of the overseer or superintendent and have such person proceeded against as though he had failed to obey the notice to work or had failed or refused to work on said road. (6) To take good care of teams, live stock, tools and im-

plements turned over to him by the court of county commissioners; to use the same only upon the <sup>Care of</sup> public roads of the county and at the expiration of his term of service or on his removal from office, he shall deliver the same to the probate judge of Macon county or to the said superin- <sup>teams, im-</sup> <sup>plements, etc.</sup>

Reports under oath.

Monthly report to judge of probat.

County commissioners, powers of.

Employ competent engineer.

To require operators of saw mills to secure license, etc.

Hauling logs, etc., license required.

Fees of probate judge.

Enter decree.

Violation of decree, penalty.

tendents successor in office. (8) To make reports under oath to the court of county commissioners at the regular terms in January, May, August, and November in each year showing the time each laborer has worked under him, together with any other reports as may be required of him by the court of county commissioners. (9) To make monthly reports under oath to the judge of probate of said county, stating the names of the pay laborers he has had in his said employ and the time they have so worked, together with the amount opposite their respective names, which they are entitled for labor performed under him, and the judge of probate shall immediately draw a warrant on the treasurer of said county in favor of said laborer for the amount which is due him.

Section 7. The court of county commissioners of Macon county have the power at any time from the passage of this Act, (1) To employ a competent surveyor or civil engineer for the use of the public roads of Macon county and to fix a reasonable compensation for his services. (2) To require persons operating saw mill in the county where the logs or lumber or any portion thereof is hauled over the public roads of the county, or any specific portion thereof, to first secure a license from the probate judge and to prescribe a price to be paid for same. (3) To require persons hauling logs, lumber or other timber or cross ties of whatsoever description over the public roads of said county, or any specified part thereof, to secure a license from the probate judge and to prescribe a price to be paid for such license on each wagon or dray so engaged. All money collected under this Act and the preceding sections shall go into the special road fund for the county. The probate judge is entitled to 25 cents for issuing each license to be paid by the party applying for the same. (4) To enter up any order or decree that they may deem wise for the benefit of the public roads of Macon county, not inconsistent with the general laws of the State of Alabama. (5) Any person who violates any order or decree made by the court of county commissioners of said county under the provisions of this act, shall

be guilty of a misdemeanor and on conviction must be fined not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100) to be paid in money and to go into the special road fund for the county. (8) Said court shall employ or authorize the superintendent or superintendents to employ such laborers, in any manner as in their judgment is best, and which said laborers shall be under the direct supervision and control of the superintendent. Laborers, how employed.

Section 8. The superintendent of said hired laborers shall actually work said laborers not less than nine hours each day. Nine hours per day. Any superintendent failing without sufficient cause or good excuse, to work said laborers nine full hours in each day, as above provided, shall be removed from office and shall forfeit his salary for the month or months in which such failure or failures occur. But nothing herein contained shall be so construed as to require persons who work the road in response to the summons given by overseers to work at other different hours than those now fixed and provided for by the general laws of this State. Exception.

Section 9. Said apportioners and overseers are to be appointed whose authority and their duties shall be such as is set out in the general road law for the State of Alabama, save as to when the same conflicts with this Act. Apportioners and overseers, duties.

Section 10. Any person appointed superintendent, apportioner or overseer, may send in his excuse for not accepting or after he has accepted, may resign to the judge of probate. Such excuse or resignation must be in writing the excuse for not serving or the reason for resignation stated and must be sworn to. The judge of probate shall pass upon such excuse or resignation and may accept or reject the same. Supt. apportioner, overseer, excuse, resignation.

Section 11. The mode of warning hands is for the overseer, or some one appointed by him, to give two days notice, in person or in writing to be left at the place or residence to all persons liable to road duty to meet at such time and place as the overseer may appoint and with such tools as he may direct. Warning, how given.

Section 12. The current road year shall begin on the 1st day of January, 1910, or as soon

as practicable, and shall end on the 31st day of December, 1910 and thereafter the road year shall begin on the 1st day of January and end on the 31st day of the succeeding December.

Ten days  
limit in any  
one year.

Section 13. No person or hand in Macon county shall be liable or required to work any public road more than ten days, in any one year not counting the days engaged in opening new roads.

Persons li-  
able.

Section 14. All persons residing in Macon county not herein exempted, shall be liable to work on the public roads of said county for ten days for each road year. The following named persons only, are exempt from duty. All persons who reside in municipal corporations and are liable to street or road duty therein; all female guards, and persons having control of convicts; all male persons under eighteen or over sixty years of age, all maimed and disabled persons, who shall procure a certificate of such disability from some reputable licensed practicing physician in Macon county, and file the same with the probate judge of said county who shall issue him a certificate, exempting him from road duty on the public roads of said county.

Exceptions.

May pay by  
June 1.

Section 15. Any person who may be liable to road duty under the provisions of this act, may discharge such liability by paying the sum of five dollars to the tax collector of Macon county on or before January 1st of each preceeding the road year for which he would be liable for road duty. Said tax collector shall issue to him on receipts furnished by the court of county commissioners of said county, a receipt giving his entire full name, the precinct in which he resided and the year for which he has so paid.

Tax col-  
lector to file  
list, etc.

Section 16. During the month of January in each year, the tax collector of said county shall file an alphabetical list according to precincts of the persons paying the said amount of five dollars (\$5.00) in lieu of work in the office of the judge of probate and mail a copy of the same to the road superintendent or superintendents of said Macon county, giving the names in full of the parties so paying, together with the total amount received under the provisions of this Act. Said tax collector shall receive for his services under this act, not to exceed 3 per cent of

the amount collected by him from persons paying in lieu of work, to be fixed by the commissioner's court of said county. Said tax collector shall pay in monthly into the county treasurer, all money so received by him from persons paying in lieu of work and notify the probate judge of the amount so paid.

Section 17. The court of county commissioners of Macon county, be, and they are hereby authorized and empowered to levy a special tax of not exceeding one quarter ( $\frac{1}{4}$ ) of one (1) per cent per annum on all taxable property for the erection, maintenance and repair of the public roads and bridges of said county, which said special tax shall be levied and collected as other taxes are levied and collected, but the funds arising from the same shall be kept separate from all other funds and shall only be used for the purpose for which the same was levied and collected. Said fund is to be known as the special road fund for Macon county.

Section 18. It shall be unlawful for any person to drag any logs or timber of any description along or across any public road in Macon county, or to bunch such timber on or along such road so as to injure the same by the reloading or removing such timber, or to place any timber, lumber or other obstruction in any culvert, or ditch along said road, so as to cause the same to fill up to any extent or so as to obstruct the free passage of water along or through the same. Any person violating the provisions of this section shall be guilty of a misdemeanor and on conviction, shall be fined not less than ten nor more than one hundred dollars, said fine to be paid in money and to go into the special road fund for the county.

Section 19. Any firm, person or corporation engaged in the business of hauling lumber, timber, crossties or other heavy loads, or running heavy machinery over the public roads of Macon county, who shall damage, break or destroy any bridge or culvert on the roads of said county, shall upon being notified either in person or by written notice given by the overseer of said road, or the superintendent of said road, and who shall within five days after such notice, fail, or

Commissioners authorized to levy tax; purposes.

Unlawful to drag logs or timber across roads.

Firms, person and corporation to repair damage, penalties.

refuse to repair the bridge or culvert so damaged, broken or destroyed, shall be guilty of a misdemeanor and on conviction, shall be fined not less than ten nor more than one hundred dollars, said fine to be paid in money and go into the special road fund for the county.

Printed  
copies of acts.

Section 20. The court of county commissioners shall keep printed copies of this act in the office of the judge of probate of said county, and said judge of probate shall distribute the same to apportioners and road overseers in the county who shall apply for the same.

Repeal,

Section 21. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Circuit judge  
to charge  
grand jury.

Section 22. It shall be the duty of the circuit judge to give this act in charge to the grand jury at each term of the circuit court of Macon county.

Hard labor  
sentence.

Section 23. Any person convicted of violating any of the provisions of this act, may also be sentenced to hard labor for the county for not more than three months.

violations,  
where triable.

Section 24. That all violations of the law under this act shall be triable in the county court of Macon county, Alabama.

Approved August 19, 1909.

No. 36)

AN ACT

(H. 278

To amend an act entitled "an act for the improvement of the public roads of Lowndes county, approved August 2nd, 1907, by repealing sections one, two, three, four, five, six and seven of said act.

Sections re-  
pealed.

Section 1. Be it enacted by the Legislature of Alabama, That sections one, two, three, four, five, six and seven of an act entitled "an act for the public roads of Lowndes county, approved August 2nd, 1907," be and the same are hereby repealed.

Repeal.

Section 2. All laws and parts of laws in conflict with this bill be and the same are hereby repealed.

Approved August 19th, 1909.

No. 37)

AN ACT

(H. 258)

To abolish the municipal corporation of Hobson City, in Calhoun county, Alabama. Be it enacted by the Legislature of Alabama that the municipal corporation of the town of Hobson City, in Calhoun county, Alabama, be, and the same is hereby abolished. <sup>Corporation</sup> ~~abolishd.~~

Approved August 23, 1909.

No. 45)

"AN ACT

(H. 141)

To require the board of revenue and road commissioners of Mobile county annually to levy a special tax of one-fifth of one per centum upon each one hundred dollars of all property assessed for taxation in said county, in addition to the special taxes now levied therein, for the support of the public schools of said county."

Section 1. Be it enacted by the Legislature of Alabama that the board of revenue and road commissioners of Mobile county be required annually to levy a special tax of one-fifth of one per centum upon each one hundred dollars of all property assessed for taxation in said county, in addition to the special taxes now levied therein, for the support of the public schools of said county. <sup>Special tax</sup> <sup>levied; pur-</sup> <sup>pose.</sup>

Section 2. Said taxes shall be paid over to the board of school commissioners of Mobile county by the tax collector of Mobile county as rapidly as the same is by him collected. <sup>Tax collec-</sup> <sup>tor to pay</sup> <sup>over to school</sup> <sup>commission-</sup> <sup>ers.</sup>

Section 3. Said board of revenue and road commissioners shall within fifteen days after the date of approval of this act, at a special meeting thereof to be called for that purpose, or at any lawful meeting held within that period, levy said tax for the tax year of 1909 upon the property now assessed or to be assessed for that year in said county. <sup>Board of reve-</sup> <sup>nuce shall levy</sup> <sup>tax for 1909.</sup>

Approved August 9, 1909.

No. 46)

AN ACT

(H. 24

County treasurer authorized to pay warrants.

To legalize and to authorize and instruct the county treasurer of Crenshaw county, Alabama, to pay warrant No. 34 and warrant No. 80, issued by the court of county commissioners of said county at the August term, 1898, and August term, 1899, of said court for forty two dollars and ninety four dollars, respectively, with interest thereon from date of issuance out of any money in the treasury not otherwise appropriated, which warrants were duly filed and registered by the county treasurer of said county on the 11th day of August, 1898, and the 17th day of August, 1899, respectively. Be it enacted by the Legislature of Alabama, that the county treasurer of Crenshaw county, Alabama, be and he is hereby authorized and instructed to pay warrant No. 34, and warrant No. 80 issued by the court of county commissioners of said county at the August term, 1898, and the August, term, 1899 of said court for forty-two dollars and ninety-four dollars respectively, with interest thereon from the date of issuance out of any money in the treasury of said county not otherwise appropriated, which warrants were duly filed and registered by the county treasurer of said county on the 11th day of August, 1898, and the 17th day of August, 1899, respectively, which warrants are hereby legalized and made valid.

Approved August 19th, 1909.

No. 48.)

AN ACT

(S. 24.

To confer upon and vest in the board of revenue of Jefferson county, Alabama, exclusively, all the rights, jurisdiction, duties and powers, vested in the Jefferson sanitary commission.

Duty of board of revenue.

Section 1. Be it enacted by the Legislature of Alabama, That the board of revenue of Jefferson county shall have and exercise, exclusively, all the duties, jurisdiction, rights and powers, which are now by law vested in the Jefferson county sanitary commission, and the several members of



said board of revenue, shall respectively perform all the duties and services, and exercise all the powers, which are required by law of the several members of the Jefferson county sanitary commission.

Section 2. That all general laws hereafter enacted by the Legislature of Alabama, in relation to the jurisdiction, powers, authority or duties of sanitary commissions in this State, shall apply to said board of revenue of Jefferson county. Duties of sanitary commissioners apply to board of revenue.

Section 3. That this act shall take effect thirty days after its approval. Effect.

Approved August 19th, 1909.

No. 49)

AN ACT

(S. 8

To legalize and confirm all appropriations heretofore made by the commissioner's court of Etowah county to aid in the erection of what is known as the Emma Sansom monument at Gadsden, Alabama; to aid in the erection of the building for the state high school for Etowah county at Attalla, Alabama; and to aid in the relief of those injured in the cyclone at Albertville, Alabama, at the time that city was wrecked by cyclone.

Be it enacted by the Legislature of Alabama, That whereas the commissioner's court of Etowah county has heretofore donated and appropriated money from the county treasury for the purpose of aiding in the erection of what is known as the Emma Sansom monument at Gadsden, Alabama; and for the purpose of aiding in the erection of the building for the state high school for Etowah county at Attalla, Alabama; and also for the aid of those injured in the cyclone at Albertville, Alabama, at the time that city was wrecked by cyclone, and whereas it is believed by some that such appropriations were not in accordance with the law; therefore each of said appropriations are now hereby legalized and confirmed in all respects the same as if they had been in every way legal at the time they were made. Appropriations legalized and confirmed.

Approved Aug. 20, 1909.

No. 51)

AN ACT

(H. 154)

To amend an act to provide for the better construction, repairing, working and maintaining the public road and bridges in Franklin county, Alabama, approved July 31, 1907.

Section 6  
amended.

Duty of Supt.

Contracts let.

1. Be it enacted by the Legislature of Alabama that said act be amended so as to read as follows: Section 6. It shall be the duty of said superintendent to divide the public roads into sections of such length as he may determine, and to let the working and keeping in repair said sections by contract. The contracts to be let to the lowest responsible bidder who shall give bond payable to Franklin county approved by the superintendent in an amount equal to three times the amount of his bid, conditioned to faithfully work and keep in good repair the section or sections he contracts to work and to the satisfaction of the superintendent. The said superintendent shall have the right to reject any bid of any proposed contractor.

Section 8  
amended.

Supt. to inspect.

Report condition of  
grounds.

2. That section 8 be amended so as to read as follows: Section 8. That said superintendent shall personally inspect all the roads in the county at least four times each year, and he shall make such suggestions and give such directions as to changing road beds, repairing, improving and working the public roads, and in building, repairing and maintaining bridges and culverts as he may deem proper. He shall make full report of the condition of the public roads and the manner in which any contracts have been or are being executed, to the court of county commissioners at the February, August and November terms of said court in each year, and such special reports as said court may call for at other times. Said superintendent shall also make full report of the condition of the public roads of the county to each grand jury of the county empanelled at a regular term of any court having a grand jury, which report shall be submitted within the first two days after the assembled such grand jury.

Section 13  
amended.

3. That section 13 be amended so as to read as follows: Sec. 13. That each and every owner of a wagon, buggy or other vehicle shall be required

ed to meet said superintendent on his rounds prior to February 15th, each year and report such wagon, buggy or other vehicle to said superintendent and shall pay to said superintendent the following wheel tax on all wagons, buggies or other vehicles having a tire up to 2½ inches wide \$1.00 on all wagon, or other vehicles having a tire from 2½ to 3 inches \$1.25; and on all wagons or other vehicles with a tire over 3 inches \$5.00. Provided that said owner may pay said tax prior to said date to the county treasurer. On a failure of any owner of any wagon, buggy or other vehicle to pay said wheel tax to the superintendent or county treasurer by the 15th day of February of each year as provided herein, it shall be the duty of said superintendent to seize any such wagon, buggy or other vehicle and after giving ten days notice of the time and place of sale, to sell said wagon, buggy or other vehicle in the precinct of the owner of said wagon, buggy or other vehicle, and to retain from such sale, \$2.00 costs in each sale, pay the said tax to the county treasurer and if any surplus, pay to owner.

Owner of vehicles to meet Supt., etc.

Wheel tax.

Failure to pay wheel tax, penalty.

4. That Sec. 14 be amended so as to read as follows: Section 14. That any person subject to road duty under the general laws of Alabama and not commuting said work by paying his \$5.00 to the superintendent or county treasurer by the 15th day of February, shall be hired to a contractor by the superintendent at 50 cents per day for ten days. And if any hand shall fail or refuse to work or furnished an able-bodied substitute, it shall be the duty of the contractor on whose section said hand shall have been assigned by the superintendent, after five days from the warning to return such and every hand so failing or refusing, to a justice of the peace in the precinct, or if there be no justice in such precinct, then to the nearest justice in an adjoining precinct, and such hand shall be proceeded against as a road defaulter under the general laws of the State. Provided, any one becoming subject to road duty after February 15th, shall have the right thirty days after he shall have become of road age, to pay said sum of \$5.00 in commutation of said ten days work, and any

Section 14 amended.

Persons liable, failure to pay, may be fixed procedure and penalties, etc.

such person failing for thirty days after he shall become so subject to road duty, shall be assigned to a contractor by the superintendent at 50 cents per day.

Contractor to  
give credit to  
county, etc.

5. Each contractor to whom any road hand failing to pay his \$5.00 has been assigned, shall give the county credit on his contract price with the county \$5.00 for each and every hand so assigned him by the superintendent.

Section 19  
amended.

Compensa-  
tion of con-  
tractor, how  
paid.

6. That section 19 be amended so as to read as follows: Sec. 19. That the compensation to be paid any contractor for work done, under his contract with the road superintendent shall be paid to said contractor by the county treasurer out of the road fund on a warrant by the commissioners' court on the said contractor filing with the court his account approved by the road superintendent.

Section 15  
amended.

Day's work  
10 hours.

7. That section 15 be amended so as to read as follows: Sec. 15. That a day's work for road hands under the provisions of this act shall be ten hours of actual service and the warning of hands shall be made by the contractor in person, or by substitute by giving two days' notice to the hands stating to the hands on what section and at what point on the section the hands shall report for service, or it may be made by leaving a written notice for the same length of time at the residence of the hands. No hand shall be required to work a section every part of which is more than six miles from his residence.

Section 16  
amended.

Contractor  
to furnish  
certificate to  
hand, review-  
ing to another  
precinct.

8. That section 16 be amended so as to read as follows: Section 16. That when a road hand assigned to a contractor who has performed a part of his service, removes from a precinct it shall be the duty of the contractor to furnish him on demand a written certificate showing the time he has served during the current calendar year which certificate shall be an exemption to such hand, to the extent of time worked from road service in any other precinct in the county to which he may remove.

Section 20  
amended.

Supt., under  
control and  
direction of

9. That section 20 be amended so as to read as follows: Sec. 20. That the superintendent shall be under the control and direction of the county commissioners, who shall require him to devote his entire time to the public roads and bridges

of the county, and shall be furnished with all necessary stationery and blanks for the use of his office to be paid out of the road fund, and such superintendent shall keep such books and account lists of contractors, enumerators and road hands as to show all transactions pertaining to the working, repairing and maintenance of the public roads and bridges, and shall be provided with a desk in the court house in which to keep his books and other papers pertaining to his office.

10. That section 25 be amended so as to read as follows: Sec. 25. That any land owner whose land shall be taken or the right of way of public roads as herein provided, who shall be dissatisfied with the amount of compensation awarded to him, may within five days after the award appeal to the city or circuit court of the county, and if on such appeal he shall recover more damages than had been awarded to him by the commissioners' court, the costs of appeal shall be paid by the county, otherwise the costs shall be paid by the land owner; when appeal is taken, the commissioners' court may pay to the clerk of the court to which said appeal is taken the amount of compensation awarded to the land owner, and upon such payment being made to the clerk the commissioners' court or superintendent of roads or the contractor shall be authorized to enter upon said land and construct the road notwithstanding the appeal.

Section 25  
amended.

Land owner  
may appeal to  
city or circuit  
court, etc.

11. That section 28 be amended so as to read as follows: Sec. 28. Any person who fails to perform any duty required of him by this act or by the general laws of this State not in conflict with this act, shall be guilty of a misdemeanor, and on conviction must be fined not less than \$10.00 nor more than \$50.00. That sections 7, 12 and 18 of said act be and they are hereby repealed.

Section 28  
amended.

Persons fail-  
ing to perform  
duties.

Penalty.

Approved Aug. 20, 1909.

No. 61)

AN ACT

(S. 123

To repeal an act approved November 23, 1907, entitled an act to provide for a license tax of one dollar on each dog over the age of

three months kept in Russell county, Alabama, and to authorize the judge of probate of said county, to collect such license tax and to issue such license; and to require the judge of probate of said county to pay the funds arising from such license to the county treasurer of said county, to be expended upon the public roads of said county, and to prescribe a punishment for any person who keeps a dog in said county over the age of three months without first having taken out such license." Be it enacted by the Legislature of Alabama,

That an act approved November 23, 1907, entitled an act to provide for a license tax of one dollar on each dog over the age of three months kept in Russell county, Alabama, and to authorize the judge of probate of said county to collect such license tax and to issue such license; and to require the judge of probate of said county to pay the funds arising from such license to the county treasurer of said county, to be expended upon the public roads of said county, and to prescribe a punishment for any person who keeps a dog in said county over the age of three months without first having taken out such license," be and the same is hereby repealed.

Approved Aug. 20, 1909.

No. 66)

AN ACT

(H. 110)

To alter or rearrange the boundary lines of the city of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or town of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam, and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham. Be it enacted by the Legislature of Alabama:

Section 1. That the boundaries of the city of Birmingham, in the county of Jefferson and State of Alabama, be and the same are hereby altered and re-arranged so as to include within the corporate limits of said city, all that territory lying within the county of Jefferson included within the boundaries herein set out, towit: Beginning at the southwest corner of section six, township eighteen south, range two, west, which is a point on the present boundary line of the city of Birmingham, in Jefferson county, Alabama; thence running north along the west boundary line of said section to where same intersects the north boundary line of the right of way of the Birmingham Mineral Railroad; thence in a northeasterly direction across the southwest quarter of the southwest quarter of said section to a point on its north boundary where the east side of an alley in block eight hundred and fifty-four (854) of the Birmingham Realty Co.'s survey intersects the north boundary line of said quarter quarter section; thence east along said north boundary to the northeast corner of the southwest quarter of southwest quarter of section six aforesaid; thence south along the east boundary line of said subdivision to its intersection with the north boundary line of the right of way of the Birmingham Mineral railroad; thence in a northeasterly direction along said right of way of said Birmingham Mineral railroad to a point where said right of way of said Birmingham Mineral railroad intersects with the east quarter section line of the west half of the northeast quarter of section twenty-seven, township seventeen south, range two, west; thence in a straight line to the center of section twelve, township seventeen, south range two, west; thence in a straight line to the southeast corner of the northeast quarter of the southeast quarter of section three, township seventeen south, range two, west; thence in a straight line to a point where the north and south center line of section seventeen, township seventeen south, range two, west, crosses the north boundary line of the right of way of the Birmingham Mineral railroad; thence westward along the north boundary of said right

Boundaries of  
city of Birm-  
ingham de-  
fined.

of way of the said Birmingham Mineral railroad, to the western boundary of the northeast quarter of the southwest quarter of section eighteen, township seventeen, south, range two, west; thence north to the southeast corner of the northwest quarter of the northwest quarter of section eighteen, township seventeen, south, range two, west; thence in a straight line to the southeast corner of the northeast quarter of the northwest quarter of section fifteen, township seventeen, range three, west; thence in a straight line to the southwest corner of the southwest quarter of the southeast quarter of section fifteen, township seventeen, range three, west; thence in a straight line along the south boundary line of said section fifteen to the southwest corner of the southeast quarter of southwest quarter of said section fifteen; thence south in a straight line to the southwest corner of the northeast quarter of the northwest quarter of section twenty-two, township seventeen, range three, west; thence west along the south boundary of said quarter section line to the southwest corner of the northwest quarter of the northwest quarter of said section twenty-two; thence south to the southwest corner of the southwest quarter of the northwest quarter of said section twenty-two; thence west in a straight line to the northwest corner of the southwest quarter of section nineteen, township seventeen, range three, west; thence south in a straight line to the southwest corner of the northwest quarter of the southwest quarter of section thirty, township seventeen, range three, west; thence east in a straight line to the northeast corner of the southeast quarter of the southwest quarter of said section thirty; thence south in a straight line to the west bound track of the Birmingham Mineral railroad; thence in a southwesterly direction along the west side of the west bound track of said Birmingham Mineral railroad until the same intersects with the south boundary line of section thirty-six, township seventeen, range four west; thence west along said south boundary line to the southwest corner of the southeast quarter of the southwest quarter of said section thirty-six, township seventeen south, range four, west;



thence north in a straight line to the northwest corner of said southeast quarter of the southwest quarter of said section thirty-six; thence west in a straight line to the southwest corner of the northeast quarter of the southwest quarter of section thirty-five, township seventeen, range four, west; thence south in a straight line to the southwest corner of the southeast quarter of the southwest quarter of section two, township eighteen, range four, west; thence in a straight line east to the northwest corner of the northeast quarter of section twelve, township eighteen, south, range four, west; thence south to the center of the south line of said section twelve, township eighteen, south, range four, west; thence east along the south boundary line of section twelve, township eighteen, south, range four, west, and the south boundary lines of section seven, eight, nine, ten and eleven, township eighteen, south, range three, west, to an intersection with the north boundary line of the right of way of the Birmingham Mineral railroad; thence eastward along the north line of said right of way of said Birmingham Mineral railroad to the intersection of the south boundary line of section one, township eighteen, south, range three, west; thence east along the south line of said section one, township eighteen, south, range three, west, to the point of beginning.

Section 2. That the boundaries set out in section one of this act be and the same are hereby established as the corporate limits of the said city of Birmingham, and the territory now included within the cities or towns of Avondale Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, shall hereafter be and constitute a part of the city of Birmingham.

Section 3. This act shall not go into effect until January 1st, 1910.

Approved Aug. 20, 1909.

No. 70)

AN ACT

(H. 307

To repeal an act entitled an act "To provide a road law for the county of Marengo, and to

enforce the same," approved February 26th, 1907. Be it enacted by the Legislature of Alabama,

Act Feb. 26, 1907, repealed. That an act entitled an act to provide a road law for the county of Marengo, and to enforce the same, approved February 26th, 1907, be, and the same is hereby repealed.

Approved Aug. 25, 1909.

No. 75) AN ACT (H. 69

To fix the time of holding the circuit court of Coffee county at Enterprise, Alabama. Be it enacted by the Legislature of Alabama,

Term fixed.

That after the first of January, 1910, the circuit court of Coffee county at Enterprise, Alabama, shall be held on the second Monday before the first Monday in March and September of each year and shall continue for two weeks at each term.

Approved Aug. 25, 1909.

No. 76) AN ACT (H. 196

To repeal "An act to repeal section 2455 of the Code of 1896 so far as the same applies to Marion county," approved December 5, 1900.

Section 2455  
Code 1896  
repealed as to  
Marion county.

Section 1. Be it enacted by the Legislature of Alabama, That an act entitled an act to repeal section 2455 of the Code of 1896 so far as the same applies to Marion county, approved December 5, 1900, be and the same is hereby repealed.

Approved Aug. 26, 1909.

No. 78) AN ACT (H. 260

To rearrange the boundaries of the town of Oxford, Calhoun county, Alabama. Be it enacted by the Legislature of Alabama,

1. That the corporate limits of the town of Oxford, in Calhoun county, Alabama, shall embrace and include all the territory within the following boundaries, towit: Beginning at a point on the section line between sections nineteen and thirty, in township sixteen, range eight, one-half mile west from the point where said section line is intersected by the electric car line on Main street, in the town of Oxford, near the Bank of Oxford corner; thence running south, turning to the east by a circular line to a point on said section line one-half mile east from the point where said section line is intersected by said electric car line on Main street near the Bank of Oxford corner, forming a semi-circle on the south side of said section line with a radius of one-half a mile; thence from the point on said section line one-half mile east from the place where said section line is intersected by said electric car line on Main street near the Bank of Oxford corner, north to a point one hundred feet north of the half section line dividing said section nineteen east and west; thence west on a line parallel with said half section line one mile; then south to the point of beginning.

Approved Aug. 23rd, 1909.

No. 79)

AN ACT

(H. 238

To authorize the city of Graymont, Alabama, to issue negotiable bonds to the amount of twenty thousand dollars for the purpose of extending the sanitary sewer system of the city of Graymont, and for the purpose of acquiring a site and building a school house thereon and equipping the same. Whereas, the city council of Graymont, Alabama, did on Monday, the 15th day of February, 1909, in accordance with the provisions of subdivision seventeen (17) of section one hundred and four (104) of the Constitution of Alabama, and in the manner prescribed by law, submit to a vote of the qualified electors of said city a proposition to issue ten thousand dollars of

bonds for the purpose of extending the sanitary sewer system of said city of Graymont, and did also submit a proposition to issue ten thousand dollars of bonds for the purpose of acquiring a site and building a school house thereon and equipping the same, and, whereas, at such election a majority of the qualified voters of the city of Graymont voted in favor of the issue of said bonds for both of the purposes named. Now, therefore, Be it enacted by the Legislature of Alabama,

City authorized to issue bonds to amt. of \$20,000 schools and sewers.

1. That the city of Graymont, Alabama, is hereby authorized to issue its negotiable bonds to the amount of twenty thousand dollars, of which amount ten thousand dollars shall be used for the purpose of extending the sanitary sewer system of said city, and ten thousand dollars shall be used for the purpose of acquiring a site and building a school house thereon and equipping the same.

Bonds due and payable, interest.

II. That said bonds shall bear date March 1st, 1909, and shall become due and payable at the expiration of twenty (20) years from that date, and shall bear interest at the rate of five per centum (50%) per annum, payable semi-annually at such bank in New York city, as the council may prescribe.

Denominations.

III. That said bonds shall be in denomination of five hundred (\$500.00) dollars each; they shall be signed by the mayor and countersigned by the treasurer of the city of Graymont, and the official seal of said city shall be affixed to the same.

Interest coupons.

IV. That said bonds shall have attached to the same interest coupon which shall be signed by the mayor and treasurer of said city by having the fac-simile signature of said mayor and treasurer lithographed or engraved thereon.

Omissions or irregularity not to affect validity.

V. That no omission or irregularity in the record or the proceedings of the city council of Graymont or in the issue of said bonds, nor any neglect by any officer charged with the execution of any duty under this act shall effect the validity of any bond issued under this authority, the said bonds and coupons shall have all the prop-

erties of commercial paper, and at and after the maturity thereof, shall be received in payment of all taxes and dues to the city of Graymont, and said bonds shall be exempt from all taxes by the city of Graymont, the county of Jefferson and the State of Alabama.

Approved Aug. 25, 1909.

No. 83)

AN ACT

(H. 320

To amend section 14 of No. 88, H. 338 approved the 26th day of February, 1907, to provide for the maintenance, improvement and protection of the public roads and bridges of St. Clair county, Alabama, and to provide for a special road tax therefor; also for the purchase of implements, teams and other things necessary in the construction, and improvement of the same; to pay for the same either out of the general fund for the county or the special road fund. Providing for the appointment by the commissioners court of said county of a road superintendent or superintendents and surveyor, fixing their pay, defining their duties and conferring special powers on the commissioners court of said county. Providing further the method of employing hands and how certain parties may be required to take out a license for the use of said public roads, providing the methods of appointing apportioners and overseers and defining their duties and how they may be excused from serving as such. Defining the road year and those liable to road duty, the time they may be required to work, describing the manner in which they may pay in lieu of work to the tax collector of said county, and his duty as to same, and the method of warning hands and defining those who are exempt from road duty. Be it enacted by the Legislature of Alabama;

That section 14 of said act which reads, all persons residing in St. Clair county not herein exempted shall be liable to work on the public roads of said county for eight days for each road

Persons ex-  
empt.

year. The following named persons only, are exempt from duty. All persons who reside in municipal corporations and are liable to street or road duty therein; all females, guards, and persons having control of convicts, all male persons under eighteen or over fifty years of age, all maimed and disabled persons, who shall procure a certificate of such a disability from some reputable licensed practicing physician in St. Clair county and file same with the probate judge of said county who shall issue him a certificate exempting him from road duty on the public roads of said county, be amended to read as follows: All persons residing in St. Clair county not herein exempted shall be liable to work on the public roads of said county for eight days for each road year. The following named persons only, are exempt from duty. All persons who reside in municipal corporations and are liable to street or road duty therein; all females, guards, and persons having control of convicts; all male persons under eighteen or over forty-five years of age, all maimed and disabled persons, who shall procure a certificate of such disability from some reputable licensed practicing physician in St. Clair county and files the same with the probate judge of said county who shall issue him a certificate exempting him from road duty on the public roads of said county.

Persons  
liable.

Persons ex-  
empt.

Approved Aug. 25, 1909.

No. 85)

AN ACT

(H. 163

To repeal an act, entitled an act to constitute a board of jury commissioners of Choctaw county, approved February 28, 1907. Be it enacted by the Legislature of Alabama:

Act Feb. 28,  
1907 re-  
pealed.

1. That the act entitled an act to constitute a board of jury commissioners for Choctaw county, approved February 28, 1907, be and the same is hereby repealed.

Approved Aug. 25, 1909.

No. 87.)

AN ACT

(H. 89.)

To vacate and annul the dedication of the following described highway or part of highway, in the city of Bessemer, Jefferson county, Alabama, and described according to the map and plat of the Bessemer Land and Improvement Company; That part of the alley between 7th and 8th avenues and extending from 21st to 22nd street, entirely through block three hundred and eighty-five (385) and to close such portion of said alley as a public highway. Be it enacted by the Legislature of Alabama:

1. That the dedication of the following highway, located in the city of Bessemer, Jefferson county, Alabama, be and the same is hereby annulled, said highway or part of said highway being described as follows: All that portion or part of an alley extending entirely through block three hundred and eighty-five (385) between 7th and 8th avenues and from the north side of 21st street to the south side of 22nd street, said highway being described according to the map and plat of the Bessemer Land and Improvement Company. Highway annulled.  
Description.

Approved Aug. 25, 1909.

No. 88.)

AN ACT

(H. 73)

To provide for license tax of one dollar on each dog over age of four months kept in Dallas county, Alabama; to authorize the collection of the same, and the issuance of license; to prescribe penalties for the violation of provisions of said act, and the disposition of fines collected therefor and for the disposition of the license taxes. Be it enacted by the Legislature of Alabama:

1. That from and after the first day of January, 1910, each and every person who keeps a dog over the age of four months, in Dallas Co., Ala., is hereby required to pay to the judge of probate of said county an annual license tax of one dollar on each and every such dog so kept in said county. Dog tax levied.

License issued  
by probate  
judge.

2. It shall be the duty of the probate judge of said county to issue to each person applying therefor, a license which shall describe each such dog to be kept thereunder, upon the payment to him of the sum of one dollar for each dog described in such license and an additional sum of twenty-five cents as a fee for issuing such license to be paid the probate judge.

Fee.

Dog fund cre-  
ated.

3. That the fund arising under this act shall be known as the Dog Fund, and the same shall be paid into the county treasury and separate accounts kept thereof, and said fund shall be dealt with and disposed of as hereinafter provided.

Tax assessor  
to keep record  
of all dogs.

4. It shall be the duty of every person at the time appointed in each precinct for receiving assessment of taxes to furnish the tax assessor a list under oath of all dogs owned by such person or kept or harbored on the premises of such person; said assessor is required, in a book kept for that purpose, to keep a record of all such lists.

Report to  
grand jury.

5. It shall be the duty of the probate judge to examine the books containing the lists prepared by the tax assessor immediately prior to the impanelling of each grand jury for said county and report to said grand jury the names of all persons who have not procured the license provided for by this act.

Disposition of  
fines.

6. That at least one dollar of every fine collected for any violation of this act shall be paid over to the probate judge and deposited to the credit of said dog fund.

Disposition of  
dog fund.

7. That said dog fund shall be disposed of as follows: (1) The tax assessor shall be paid therefrom at the rate of ten cents for each dog listed in his said book. (2) A portion of said fund shall be applied to the reimbursement of any cost or expenses incurred by any one in taking treatment for hydrophobia, where said person has been bitten in said county by any dog suspected or supposed to be afflicted with said disease; (3) To the suppression and isolation of tuberculosis in said county, and the treatment of indigent patients afflicted with said disease; such payments mentioned in subdivisions two and three to be made upon requisition of the health officer of said county. (4) The residue of such funds or so much thereof as may be nec-



essary may be applied to the assistance of indigent, needy confederate soldiers; all such payments to be made upon the direction of the court of county revenues, and any surplus remaining thereafter to be applied by said board to any public school interest in said county.

8. Any person who at the time herein required for listing dogs shall have paid the dog tax <sup>Payment of license in Selma.</sup> required by the city of Selma, and shall at said time on oath before said assessor, in writing, certify that he has paid such tax, for the current year, shall be exempt from the taxes provided for in this act, upon any such dog for which he has paid such tax to the city.

9. It shall be a misdemeanor for any person, <sup>Misdemeanor to violate.</sup> firm, or corporation, to own, keep, harbor, or allow to be kept or harbored, a dog about their premises upon which the license has not been paid, or which has not been listed as aforesaid, or, for failure to furnish the list to the tax assessor as provided for in section 4 of this act.

10. Any person, firm or corporation, who <sup>Penalty.</sup> shall be guilty of any of the misdemeanors provided for in section nine or all or any of the provisions of this act, shall be punished by fine not less than two dollars nor more than three dollars, and by hard labor or imprisonment for a period of not more than ten days or both, and justices of the peace shall have jurisdiction in said county.

Approved Aug. 25, 1909.

No. 95.)

AN ACT

(S. 69.

To amend sections 9, 14, 15 and 18, of an act entitled an act, to regulate the trial of misdemeanor in the county of Macon. Be it enacted by the Legislature of Alabama.

Section 1. That section 9 of said act be amended to read as follows: That the circuit solicitor <sup>Section 9 amended</sup> shall appoint a deputy solicitor to represent him in the said county court of Macon county, who shall prosecute all criminal cases before said court, and said deputy solicitor for said services shall be entitled to the fees as provided in

section 4868 of the Code of Alabama for the trial for misdemeanors; provided, however, that the entire compensation allowed to said county solicitor shall not exceed seven hundred and fifty dollars per annum, and that all fees earned by said solicitor after he shall have received seven hundred and fifty dollars,, in each and every year shall go into and be a part of the fine and forfeiture fund of said county. The provisions of section 1 shall not take effect until the end of the term of the present deputy solicitor.

Section 14  
amended.

Section 2. That section 14 of said act be amended to read as follows: That at least ten days before the day fixed by this act for holding any regular term of the county court of said county the judge of probate, the clerk of the circuit court and the sheriff of said county, or a majority of them shall draw from the jury box provided by this act the names of twenty-four competent persons to serve as jurors at said term of the county court and the list of jurors so drawn shall be delivered to the clerk of the county court, who shall issue an order to the sheriff to summons said persons to serve as jurors at said term of the county court, and upon the receipt of said order the sheriff shall proceed to execute the same as now provided by law for similar service as to jurors for the circuit court; provided that, if in the opinion of the judge of the county court no juries will be required at the next regular term of the said county court, said judge shall issue an order to the sheriff to desist from executing said order of the clerk, and no juries shall be summoned to said term; and provided further, that the slips containing the names of the jurors drawn under this section shall be immediately returned to the box from which they were drawn; and provided further that the fact of his having served as a juror in the county court shall not excuse or disqualify any person from serving as a juror in the circuit court at any term thereof.

Section 15  
amended.

Section 3. That section 15 be amended to read as follows, Section 15. That each juror who shall serve at any term of said county court shall receive for such service two dollars for each days service. He shall also receive mileage at the

rate of four cents per mile traveled, said attendance and mileage to be proved, certified and paid as provided by law in the case of jurors serving in the circuit court. The same oath shall be administered to jurors in the county court as in the circuit court, and the presiding judge shall have the same authority to excuse jurors as is now exercised by judges of the circuit court.

Section 4. That section 18 be amended to read Section 18 amended. as follows: Section 18. That the compensation of the judge of the county court shall remain the same, and shall be paid in the same manner as is now provided in section 4882 of the Code of Alabama, and the clerk of the court shall receive the same fees as are allowed by law for similar services in the circuit court and the sheriff shall receive the same fees as are allowed by the laws of the State for such services in the county court; the fees of the last two mentioned officers to be taxed and collected as now provided by law, but for all services performed by the county court or by the judge thereof in any cause the fee shall be five dollars, to be taxed against the defendant on conviction and when collected to be paid into the county treasury.

Approved Aug. 25, 1909.

No. 96)

AN ACT

(H. 298

To amend an act entitled "An act to alter and rearrange the boundaries of the town of Pollard, extending the corporate limits of said town," approved July 31, 1907. Be it enacted by the Legislature of Alabama

1. That an act entitled "An act to alter and rearrange the boundaries of the town of Pollard, extending the corporate limits of said town," approved July 31, 1907, be, and the same is hereby amended to read as follows: Sec. 1. That the boundaries of the town of Pollard in the county of Escambia and State of Alabama, be, and the same are hereby altered and re-arranged and extended so as to include within the corporate limits of said town all of that territory ly-

Boundaries of  
Pollard de-  
fined.

ing within the county of Escambia, and State of Alabama, included within the following boundaries, towit: Beginning at a point in the center of the Louisville & Nashville railroad track, at the south end of the trestle spanning Jernigan Mill creek, and running in a westernly direction and at right angles to said railroad track a distance of four hundred (400) yards; thence in a southerly direction and parallel to said railroad track to a point opposite Bay Branch trestle; thence running in an easternly direction to a point on the east right of way line of said railroad crossing said railroad on the south bank of Bay Branch; thence running in a southerly direction and along the east right of way line of said railroad a distance of one-half mile, thence in an easterly direction six hundred (600) yards, thence running in a northerly direction and parallel to said Louisville & Nashville railroad track to a point; thence running in a westerly direction a distance of six hundred (600) yards to the point of beginning.

Boundary es-  
tablished.

11. That the boundaries set out in section 1 of this act be, and the same are hereby established as the corporate limits of the said town of Pollard.

Approved Aug. 25, 1909.

No. 98)

AN ACT

(H. 363

To provide for the election of a county solicitor for Monroe county, to define his duties and to fix his compensation.

County so-  
licitor.

Section 1. Be it enacted by the Legislature of Alabama, That at the general election to be held in Monroe county on the first Tuesday after the first Monday in November, 1910, and every four years thereafter, the qualified electors of Monroe county shall elect a county solicitor, whose term of office shall begin the day after the election and shall be for four years and until his successor is elected and qualified; said officer must be a qualified elector of Monroe county and shall be learned in law. In case of a vacancy occurring at any time in said office, the governor shall fill said vacancy by appointment, such ap-

Term of office.

Qualifica-  
tions.

Vacancies, how  
filled.

pointee to hold said office until the next general election, for any State officer, held at least six months after the vacancy occurs and until his successor is elected and qualified.

Section 2. That it shall be the duty of said officer to prosecute for the State of Alabama in the county court of Monroe county; to represent the State in all preliminary trials in felony cases and in all habeas corpus proceedings, where the petitioner is charged with the commission of a felony; provided said proceedings are held at the county seat, and to assist the circuit solicitor in said county of Monroe whenever called upon to do so. <sup>Duty of solicitor.</sup>

Section 3. That it shall be the exclusive authority of said county solicitor to represent the State in all prosecutions in the county court of Monroe county, and said county solicitor shall not defend any criminal case in any court in said county during his term as solicitor, and if he has a law partner, said partner is prohibited from defending criminal cases in Monroe county. <sup>To represent State only.</sup>

Section 4. That said county solicitor in all cases in said county court shall receive the same fees that the circuit solicitor is entitled by law to receive in the circuit court and that the said county solicitor for the said Monroe county may collect and retain for his services the fees and commissions earned by him in said county court during the year not to exceed twelve hundred dollars per annum, payable monthly; the residue of such commissions and fees shall be paid by him into the county treasury to the credit of the general fund of said Monroe county. <sup>Fees.</sup>

Section 5. That all laws and parts of laws contrary to or in conflict with the provisions of this act be and the same are hereby repealed. <sup>Salary.</sup>

Approved Aug. 25, 1909.

No. 103)

AN ACT

(H. 120

To vacate and annul the charter and dissolve the corporation of the city of Avondale. Be it enacted by the Legislature of Alabama.

1. That the charter of the city of Avondale, in Jefferson county, Alabama, whether created

Charter vacated and annulled.

by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the city of Avondale, incorporated, known and styled as the city of Avondale, be and the same is hereby dissolved, and all local or special acts in conflict with the provisions of this act be and the same are hereby repealed.

Effective.

II. This act shall not go into effect until October 1st, 1909.

Approved Aug. 25, 1909.

No. 104)

AN ACT

(H. 337

To abolish the county court of Morgan county, Alabama, and to annul its jurisdiction, which court is provided for in and by article 3, chapter 142 of the Code of Alabama, and to provide for the transfer of all of the causes of every kind and description pending in said court at the time of the approval of this act, together with all papers, records, processes and everything to such causes pending in said court, by the clerk thereof to the Morgan county law and equity court. Be it enacted by the Legislature of Alabama,

County court Morgan county abolished.

1. That the county court of Morgan county, Alabama, provided for in and by article 3, chapter 142, of the Code of Alabama 1896 be, and the same is hereby abolished and its jurisdiction annulled.

Transfer of cases to Morgan county law and equity court.

II. It is hereby made the duty of the clerk of the said county court to transfer to the Morgan county law and equity court all cases of every kind and description pending in said county court at the date of the approval of this act, together with all papers, records, processes and everything pertaining to such causes pending in said county court and said causes so transferred to the said Morgan county law and equity court shall stand for trial in said court as if originally filed or begun therein, and the said Morgan county law and equity court shall have the same jurisdiction and powers in regard to

said causes, and all papers, records, processes, and everything pertaining to such causes, as the said county court now has in reference thereto.

III. All causes now pending in the supreme court of Alabama, on appeal from said county court of Morgan county, shall if reversed and remanded, be remanded to said Morgan county law and equity court and shall thereafter stand in said court as if originally brought therein; and all causes pending in said supreme court on appeal from said county court, if affirmed, shall be proceeded with in said Morgan county Law and Equity Court as if originally brought therein. Cases on appeal in supreme court.

IV. This act shall go into effect immediately upon its approval by the governor. Effective.

Approved Aug. 25, 1909.

No. 120)                      AN ACT                      (S. 140

To repeal the local road laws applying to the county of Montgomery. Be it enacted by the Legislature of Alabama:

Section 1. That an act entitled "An act relative to commissioners' courts of Roads and Revenue, for the counties of Montgomery and Lowndes," approved 6th February, 1843, an act entitled "An act to better enforce the working of public roads in the counties of Montgomery and Hale," approved February 23, 1883; and an act entitled "An act to amend an act entitled "An act to better enforce the working of public roads in the counties of Montgomery and Hale," approved February 26th, 1883, so far as relates to the county of Montgomery," approved February 12, 1885, be and the same are hereby repealed in so far as they relate to the county of Montgomery. Repeal as to Montgomery County.

Section 2. That an act entitled "An act to provide a road law for the county of Montgomery and to enforce the same," approved February 11, 1887, and an act entitled "An act in relation to roads, bridges, county tools and overseers of roads in Montgomery county," approved February 5, 1881; and section 2 of an act enti- Repeal as to Montgomery County.

tled "an act to regulate the duties and compensation of a board of revenue of Montgomery county," approved February 12, 1881; and all other local road laws applying to the county of Montgomery be and the same are hereby repealed.

Approved August 25, 1909.

No. 149)

AN ACT

(H. 116

To vacate and annul the charter and dissolve the corporation of the city of Elyton. Be it enacted by the Legislature of Alabama:

Charter vacat-  
ed and an-  
nulled.

1. That the charter of the city of Elyton in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the city of Elyton, incorporated, known and styled as the city of Elyton, be and the same is hereby dissolved, and all local or special acts in conflict with the provisions of this act be and the same are hereby repealed.

Repeal.

Effective.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910, and in the event that House bill Number 110, entitled "an act to alter or re-arrange the boundary lines of the city of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam, and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then in that event this act shall not be effective.

Approved August 26, 1909.



No 151)

AN ACT

(H. 121)

To vacate and annul the charter and dissolve the corporation of the city of Woodlawn. Be it enacted by the Legislature of Alabama :

1. That the charter of the City of Woodlawn, <sup>Charter vacated and annulled.</sup> in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the City of Woodlawn, incorporated, known and styled as the City of Woodlawn, be and the same is hereby dissolved, and all local or special acts in <sup>Repeal.</sup> conflict with the provisions of this act be and the same are hereby repealed.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910; and in the event that House bill Number 110, entitled "an act to alter or rearrange the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam, and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then and in that event this act shall not be effective. <sup>Effective.</sup>

Approved Aug. 26, 1909.

No. 155)

AN ACT

(H. 350)

To authorize the commissioners court of Tallapoosa county to pay to P. A. Jackson, editor and proprietor of the Tallapoosa Courer, a news-paper published in Tallapoosa county, seventy-four dollars out of the county treasury for services rendered in printing and publishing the report of the treasurer of said county made in the year 1907.

Amount au-  
thorized to be  
paid.

Section 1. Be it enacted by the Legislature of Alabama, That the commissioners court of Tallapoosa county is hereby authorized to pay to P. A. Jackson, editor and proprietor of "The Tallapoosa Courier," a newspaper published in Tallapoosa county, seventy-four dollars out of the county treasury of Tallapoosa for services rendered in printing and publishing the report of the treasurer of said county made in the year 1907.

Approved Aug. 25, 1909.

No. 156)

AN ACT

(H. 115)

To vacate and annul the charter and dissolve the corporation of the City of North Haven. Be it enacted by the Legislature of Alabama:

Charter vacat-  
ed and annul-  
ed.

1. That the charter of the City of North Haven in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the City of North Haven, incorporated, known and styled as the City of North Haven, be and the same is hereby dissolved, and all local or special acts in conflict with the provisions of this act be and the same are hereby repealed.

Repeal.

Effective.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910; and in the event that House bill Number 110, entitled "an act to alter or re-arrange the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam, and Ensley and other territory, and so as to exclude from the City of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then and in that event this act shall not be effective.

Approved Aug. 25, 1909.

No. 157)

AN ACT

(H. 112)

To vacate and annul the charter and dissolve the corporation of the City of West End. Be it enacted by the Legislature of Alabama,

1. That the charter of the City of West End, in Jefferson County, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled and that the corporation of the City of West End, incorporated, known and styled as the City of West End, be and the same is hereby dissolved and all local or special acts in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910, and in the event that House bill Number 110, entitled "an act to alter or rearrange the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylem and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then in that event this act shall not be effective.

Approved Aug. 25, 1909.

No. 167)

AN ACT

(H. 119)

To vacate and annul the charter and dissolve the corporation of the City of Ensley. Be it enacted by the Legislature of Alabama,

Section 1. That Charter of the City of Ensley in Jefferson county, Alabama, whether created by authority of special statute or under the gen-

Charter vacat-  
ed and annull-  
ed.

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eral law, be and the same is hereby vacated and annulled and that the corporation of the City of Ensley, incorporated, known and styled as the City of Ensley, be and the same is hereby dissolved, and all local or special acts in conflict or inconsistent with the provisions of this act be and same are hereby repealed.

Effective Jan.  
1, 1910.

Section II. This Act shall not go into effect and become operative as a law until the first day of January, 1910, and in the event that House bill Number 110, entitled "an act to alter or re-arrange the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or town of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, and other territory, and so as to exclude from the City of Birmingham certain territory now included within the corporate limits of said City of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid of unconstitutional, then in that event this act shall not be effective.

Approved Aug. 25, 1909.

No. 169.)

AN ACT

(H. 276.

To vacate and annul certain streets and alleys in, through and between Blocks 94, 95 and 96 of East Lake Land Company's survey of East Lake, Alabama. Be it enacted by the Legislature of Alabama,

Streets and alleys; description.

That the following streets and alleys and portions of streets and alleys, intersecting, running through, or between Blocks 94, 95 and 96, according to the East Lake Land Company's survey of East Lake, Alabama, viz., A. All that part of the alley running east and west through block 94 extending from the east line of lot 34 to the west line of lot 16; b. All that part of the alley in block 95 extending from the east line of Lot 36 to the west line of Lot 26; c. All that part of the alley in block 96 extending from the east

line of lot 35 to the west line of Lot 27; d. All that part of Walker Avenue between blocks 94 and 95, and extending from the east line of lot 5 to the west line of lot 17 in block 94, and from the east line of lot 37 to the west line of Lot 25 in block 95; e. All that portion of Burney avenue between blocks 95 and 96, and extending from the east line of lot 8 in block 95 to the west line of lot 17 in said block, and from the east line of lot 33 in block 96 to the west line of lot 27 in said block; be and they are hereby vacated and annulled, and the dedication thereof for the use of the public as streets and alleys be and the same is hereby vacated, annulled and extinguished; the said portions of streets and alleys hereinabove described intersecting the property and campus of Howard College, at East Lake, Alabama.

Annulled and  
vacated.

Approved Aug. 25, 1909.

No. 170)

AN ACT

(H. 347

To amend section one of an act entitled, an act to make better provisions for paying witnesses who appear for and at the instance of the State in the trial and investigation of criminal cases and charges in the circuit court of Walker county, or the Walker county law and equity court or before the judges or grand juries of either of said courts, approved November 23, 1907. Be it enacted by the Legislature of Alabama, That section one of an act entitled, an act to make better provision for paying witnesses who appear for and at the instance of the State in the trial and investigation of criminal cases and charges in the circuit court of Walker county, or the Walker county law and equity court or before the judges or grand juries of either of said courts, approved November 23, 1907, be amended so as to read as follows:

Sec. 1 of act  
approved Nov.  
23, 1907,  
amended.

Section 1. That the treasurer of Walker county, Alabama, shall each year, out of the first moneys received by him to the credit of the

Treasurer to  
set apart  
gen- funds, etc.

eral fund of said Walker county, set apart and pay into the witness fund the sum of five thousand dollars.

Approved Aug. 25, 1909.

No. 171) AN ACT (H. 113

To vacate and annul the charter and dissolve the corporation of the City of Wylam. Be it enacted by the Legislature of Alabama:

Charter annulled and vacated.

Section 1. That the charter of the City of Wylam, in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled and that the corporation of the City of Wylam, incorporated, known and styled as the City of Wylam, be and the same is hereby dissolved, and all local or special acts in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

Effective.

Section 2. This act shall not go into effect until January 1st 1910.

Approved Aug. 25, 1909.

No. 172½) AN ACT (H. 111

To vacate and annul the charter and dissolve the corporation of the City of East Lake. Be it enacted by the Legislature of Alabama,

Charter annulled and vacated.

1. That the charter of the City of East Lake in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the City of East Lake, incorporated known and styled as the City of East Lake be and the same is hereby dissolved, and all local or special Acts in conflict with the provisions of this act be and the same are hereby repealed.

Effective, conditions.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910, and in the event that House bill Number 110 entitled, "an act to alter or re-ar-

range the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then in that event this act shall not be effective.

Approved Aug. 25, 1909.

No. 176)

AN ACT

(H. 118)

To vacate and annul the charter and dissolve the corporation of the City of Pratt City. Be it enacted by the Legislature of Alabama :

1. That the charter of the city of Pratt City, in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled and that the corporation of the City of Pratt City, incorporated, known and styled as the City of Pratt City, be and the same is hereby dissolved, and all local or special acts in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910; and in the event that House bill Number 110, entitled "an act to alter or re-arrange the boundary lines of the city of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham."

shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then and in that event this act shall not be effective.

Approved Aug. 25, 1909.

No. 177)

AN ACT

(H. 117

To vacate and annul the charter and dissolve the corporation of the City of North Birmingham. Be it enacted by the Legislature of Alabama,

Charter annulled and vacated.

1. That the charter of the City of North Birmingham, in Jefferson county, Alabama, whether created by authority of special statute or under the general law, be and the same is hereby vacated and annulled, and that the corporation of the City of North Birmingham, incorporated, known and styled as the City of North Birmingham, be and the same is hereby dissolved, and all local or special acts in conflict with the provisions of this Act be and the same are hereby repealed.

Effective, conditions.

Section 2. This act shall not go into effect and become operative as a law until the first day of January, 1910; and in the event that House bill Number 110, entitled "an act to alter or re-arrange the boundary lines of the city of Birmingham, Alabama, so as to include within the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, and other territory, and so as exclude from the City of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then and in that event this act shall not be effective.

Approved Aug. 25, 1909.



No. 178)

AN ACT

(H. 114)

To vacate and annul the charter and dissolve the Corporation of the City of Graymont. Be it enacted by the Legislature of Alabama:

I. That the charter of the City of Graymont in Jefferson county, Alabama, whether created by Authority of special statute or under the general law, be and the same is hereby vacated and annulled and that the corporation of the City of Graymont, incorporated, known and styled as the City of Graymont, be and the same is hereby dissolved, and all local or special acts in conflict or inconsistent with the provisions of this act be and the same are hereby repealed. Charter vacated and annulled.

Section 2, This act shall not go into effect and become operative as a law until the first day of January, 1910, and in the event that House bill Number 110, entitled "an act to alter or re-arrange the Boundary lines of the City of Birmingham, Alabama, so as to include with the corporate limits of said city, the territory now included within the cities or towns of Avondale, Woodlawn, East Lake, North Birmingham, North Haven, Graymont, Elyton, West End, Pratt City, Wylam and Ensley, and other territory, and so as to exclude from the city of Birmingham certain territory now included within the corporate limits of said city of Birmingham," shall be, by a court of last resort having jurisdiction, declared and adjudged null and void, invalid or unconstitutional, then and in that event this act shall not be effective. Effective.

Approved Aug. 25, 1909.

No. 182)

AN ACT

(H. 330)

To prohibit the sale of adulterated seed for planting or sowing purposes in Henry county, Alabama.

Section 1. Be it enacted by the Legislature of Alabama, that any person, firm or corporation having planting seed of any kind for sale, or who offers for sale an planting seed of any kind in the county of Henry, shall be required Tags required. What printed thereon.

to have tags attached to each sack or bag or whatever contains the seed with a guarantee as to kind and quality printed thereon, and in case such guarantee is false, they shall pay any and all damages that may accrue from the sale of said adulterated seed.

Repeal.

Section 2. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Approved Aug. 26, 1909.

No. 192.)

AN ACT

(H. 325.)

To provide for the further protection of fish in Baldwin county, to prevent the taking or catching of fish in any lake, river, creek or bayou in said county, except with hook and line; and to provide a penalty for the same; to make it unlawful for any non-resident engaged in the business of commercial fishing to take fish in Baldwin county.

Unlawful to take fish by means of seines, nets, etc. in tide waters of Baldwin county.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be unlawful for any person to use any net, seines or substitutes for the same except cast-net for the purpose of catching or attempting to catch or take fish in any of the rivers, lakes, creeks or bayous of Baldwin county emptying into salt or tide waters. That fish can only be taken in waters emptying into salt or tide water in said county, by means of ordinary hook and line, trot-line, spear, cast-net, or gig, provided that it shall be lawful for any person or persons to use hoop-nets in which bait is used to attract fish in the navigable rivers of said county, upon which passenger and freight steam packets or boats regularly ply; and provided further that it shall be lawful to take fish from pools or running streams of said county during those periods of the year when such streams cease to run. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense.

Section 2. That it shall be unlawful for any person to use in the salt or tide waters of said county any seines or net having a mesh of less than two inches when stretched; provided that this shall not apply to persons using cast nets or nets used for the purpose of catching or taking shrimp or crabs. Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 3. That the provisions of this act shall not apply to that territory lying and being in Baldwin county, which lies south of the northern boundary line of township 8 south, and west of the western boundary line of of range 5 east, nor to Weeks bay, and provided further that that portion of streams emptying into Weeks bay, one mile from the mouth thereof, is exempted from the provisions of this act, in said county; provided further that nothing in this act shall be construed to prevent the taking of sturgeon, by any means now commonly employed in the salt or tide waters of said county.

Section 4. That it shall be unlawful for any person or persons, engaged in the business of commercial fishing or of catching fish for commercial purposes, who have not been bona fide residents of this State for one year past to catch or take fish or attempt to catch or take fish in any of the waters of Baldwin county. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense. Provided, however, that the provisions of this section shall not apply to actual bona fide residents living on the east side of Perdido bay in the State of Florida.

Section 5. That all fines, forfeitures, penalties, etc., arising under the provisions of this act shall be paid into the Game and Fish Protection Fund as now provided by law, and all persons convicted under the provisions of this act must pay the fine imposed in cash, that is to say in the currency of the United States of America.

Act immediately effective.

Section 6. That this act shall become effective on and after its passage and approval by the governor.

Approved Aug. 31, 1909.

No. 211)

AN ACT

(H. 360

To empower the city council of Birmingham, Birmingham, Alabama, to sell certain parts of 19th street, 17th, 16th street 15th street, Alley G and Maiden Lane in the city of Birmingham, Alabama, and direct the application of the proceeds derived therefrom. Be it enacted by the Legislature of Alabama:

City Council empowered and authorized to sell portions of streets.

Section 1. That the City Council of Birmingham, Birmingham, Alabama, be and they are hereby authorized and empowered to sell that portion of each 19th street, 17th street, 16th street, 15th street, Alley G, and Maiden Lane in the City of Birmingham, Alabama, specifically described as follows: That portion of 19th street lying between Powell avenue and the general railroad right-of-way described as follows: Beginning at the north west corner of 19th street and Powell ave.; thence northward along the west line of 19th street one hundred and sixty-six and five tenths (166.5ft.) to the general railroad right-of-way; thence eastward along the south line of said right-of-way one hundred feet (100ft) to the east line of 19th street; thence southward along the east line of 19th 166.5 ft. to Powell avenue; thence westward along the north line of Powell avenue 100 ft. to the point of beginning. That portion of 17th street lying between Powell avenue and the railroad right-of-way, more particularly described as follows: Beginning at the north west corner of Powell avenue and 17th St.; thence northward along the west line of 17th street 116.5 feet to the railroad right-of-way; thence eastward along the said right-of-way 80 feet to the east line of said 17th street; thence southward along the east line of 17th street 116.5 feet to the north line of Powell avenue thence westward along the north line of Powell avenue

80 feet to the point of beginning. That portion of 15th street lying between Powell avenue and the railroad right-of-way, more particularly described as follows: Beginning at the northwest corner of Powell avenue and 15th street, thence northward along the west line of 15th street 116.5 feet to the railroad right-of-way; thence eastward along said right-of-way 80 feet to the east line of said 15th street, thence southward along the east line of said 15th street 166.5 feet to the north line of Powell avenue; thence westward along the north line of Powell avenue 80 feet to the point of beginning. That portion of Alley G lying between 20th street 20th alley; more particularly described as follows: Beginning at a point on the east side of 20th street 190 feet south of avenue G; thence eastwardly parallel to Avenue G 215 feet to 20th alley; thence southwardly parallel to 20th street 20 feet; thence westwardly parallel to Avenue G 215 feet to the east line of 20th street; thence northwardly along the east line of 20th street 20 feet to the point of beginning. That portion of Maiden Lane lying between the south line of the north west quarter of the northeast quarter of section 6, township 18 south, range 2 west, and Highland avenue, more particularly described as follows: Beginning at the southeast corner of Highland avenue and Maiden Lane; thence southwardly along the east line of Maiden Lane 136.17 feet to the south line of the northwest-quarter of the north east quarter of section 6 township 18 south, range 2 west; thence westwardly along said section line about 44 feet to the west line of Maiden Lane; thence northwardly along the west line of Maiden Lane 189.86 feet more or less to the south line of Highland avenue; thence eastwardly along the south line of Highland avenue 61 feet more or less to the point of beginning.

Section 2. Be it further enacted that such sale or sales shall be made upon such terms as the city council may determine and that the proceeds derived therefrom shall be devoted to the improvements of the parks now owned by said city and to the purchase of a park for the third ward and the Lakeview school section of said city known as the sixth ward.

Terms of sale;  
proceeds used  
for improve-  
ments of parks

Approved Aug. 26, 1909.

No. 216)

AN ACT

(S. 107)

To provide for an official shorthand reporter for the city court of Anniston and the circuit court of Calhoun county; to prescribe the term of office and duties of such reporter, and to fix his compensation.

County Commissioners authorized to create office.

Section 1. Be it enacted by the Legislature of Alabama, That the board of county commissioners of Calhoun county, Alabama, is hereby authorized to create the office of official shorthand reporter of the city court of Anniston and the circuit court of Calhoun county, which official reporter shall be elected by said board of county commissioners. Said reporter shall be a competent and experienced court reporter, and shall hold office for four years and until his successor is appointed and qualified. Said reporter shall be a sworn officer of said courts, and must take before either of the judges of said courts the statutory oath of office, and in addition the following oath: "I do solemnly swear that I will faithfully and truly record in shorthand and transcribe in typewriting the oral testimony and proceedings which it shall become my duty to report and transcribe as reporter of the city court of Anniston and the circuit court of Calhoun county, so help me God." One of the judges of said courts may require said reporter to give bond in a sum not to exceed one thousand dollars for the faithful performance of his duties.

Reporter, qualifications.

Oath.

Bond.

Duties of Reporter.

Section 2. That it shall be the duty of said reporter, in person or by competent assistant, to attend the sessions of the city court of Anniston and the circuit court of Calhoun county, and whenever his services shall be required by the presiding judge or by any party to a suit pending in either of said courts, he shall take stenographic notes of the oral evidence and proceedings (except argument of counsel), noting the order in which same occur, recording all objections, the rulings of the court thereon and exceptions reserved thereto, together with the oral charge of the court to the jury and all exceptions reserved thereto. Shorthand notes as taken

shall be read to the court by the reporter if required by the presiding judge; during the progress of the trial. Said reporter shall cause the original shorthand notes in each case to be properly indexed and filed in some safe and convenient place to be prescribed by the court, and the same shall be preserved by such reporter for at least two years from the date of trial of such case upon the written demand of any party applying for the same personally or by counsel; said reporter must prepare and file a transcript in typewriting of his stenographic notes, within forty days after such demand which he must certify. The reporter shall be entitled to demand and receive from the party ordering a transcript, upon the delivery thereof the sum of five cents per hundred words contained in such transcript which, if such transcript be ordered by a party to the cause, shall be taxed as part of the cost in such case; but he shall not transcribe documentary evidence unless requested by the party applying for such transcript. Provided that nothing herein contained shall preclude said official reporter from making an agreement to furnish under special conditions a transcript of any case in less than two weeks after demand is made for same. Said reporter may require sufficient security to cover the cost of the transcript to be deposited with the clerk of the court; provided that in criminal cases, if the defendant is ascertained by the presiding judge to be unable to pay the costs of the transcript, said judge may order the reporter to furnish said defendant a copy of the transcript, and the cost of same shall be reduced one-half and paid by the county, and taxed as other costs in the case.

Section 3. That said official reporter shall receive an annual salary of twelve hundred dollars, payable in monthly installments by warrant of the president of the board of county commissioners, drawn on the treasurer of Calhoun county.

Section 4. That said official reporter may attend either of said courts by competent assistant, to be approved by the presiding judge. Such assistant reporter shall take the oath hereinbefore prescribed to be taken by the official

transcripts,  
Payment for

Salary.

Reporter—  
Assistants,  
Oath, etc.

reporter before performing and duties under the provisions of this act. The certified transcript of the official or assistant reporter shall be prima-facie correct, and shall control in the event of disagreement relative to the matter reported.

**Attend sessions of grand jury.** Section 5. That said official reporter, or any assistant duly and legally appointed by him under the provisions of this act, shall, when requested by the solicitor of Calhoun county, be authorized and required to attend any of the sessions of the grand jury organized in the city court of Anniston, and to take notes of the evidence when requested by said solicitor to do so, in any case under investigation by such grand jury and in any preliminary trial of a felony case, and to transcribe said notes into typewriting and deliver the same to said solicitor for his use alone if a true bill be found by the grand jury in such case. Said reporter, or if he acts through an assistant, said assistant reporter, shall be sworn to keep secret everything coming to his knowledge by reason of his presence in the grand jury room, and he shall not be present during the deliberations of the grand jury.

**Oath.**

**Parties desiring cases reported; costs of.** Section 6. That any party desiring a case to be reported in either of said courts shall request the services of the official reporter. In every case that is reported, whether a transcript of the testimony and proceedings be afterwards demanded or not there shall be taxed as part of the costs the sum of ten dollars which shall be collected as other costs in the case, and when collected, shall be paid into the treasury of said county.

**Reporter may employ assistant for circuit court.** Section 7. That when the official reporter is engaged in the performance of his duties in said city court of Anniston, and his services or the services of a reporter are ascertained by the presiding judge to be necessary in the circuit court of Calhoun county, an assistant reporter may be employed by the official reporter, which said assistant reporter shall be compensated by the payment to him of five dollars per diem for the number of days actually engaged in attendance on sessions of the court, which compensation shall be paid on the last day of each month in which the services are rendered, on certificate from the judge of said court certifying the number of days

**Compensation; how paid.**



so employed in said month and the amount due for such services, which certificate shall be payable on presentation to the president of the board of county commissioners of Calhoun county, who shall issue a warrant on the county treasurer for same. It shall be the duty of the official reporter to provide a competent assistant reporter for said purpose; and if any compensation for said assistant reporter be necessary other than that hereinbefore provided, the same shall be borne by the official reporter.

Section 8. That the board of county commissioners of Calhoun county shall assign to said official reporter, for his use as an office a suitable and convenient room in the courthouse of said county; and that all stationery and office supplies to be used by such official reporter, in his capacity as such, shall be paid for by Calhoun county, upon order of the court of county commissioners in the manner now provided for the payment of stationery and office supplies used by the judge of probate of said county.

Approved Aug. 26, 1909.

No. 226)

AN ACT

(H. 313

To provide for holding terms of the circuit court of Coffee county twice each year at both Elba and Enterprise in said county; to define the jurisdiction of the court held at each place; to provide for transferring cases from one place to the other; to repeal all laws of a local character in conflict with or repugnant to this act

Section 1. Be it enacted by the Legislature of Alabama, That on and after the passage of this act, the circuit court for Coffee county, Alabama, shall be held twice each year at both Elba and Enterprise in said county.

Terms at Elba and Enterprise; time each year.

Section 2. That the line now defining the western line of the territorial jurisdiction of the court now held at Enterprise in said county be and the same is designated as the dividing line between the two courts. That portion of the county lying east of said line shall be known as

Dividing line defined.

Cases in each  
division, etc.

Enterprise division and that west as the Elba division. That in all cases of which the circuit court of said county has or may after have jurisdiction, civil suits or proceedings shall be instituted in that division in which the defendant resides, or in which one of the defendants resides if there be more than one, or in which the land involved in litigation is located, or if the land is located partly in both divisions, then in that division in which one of the defendants resides, or if the defendant in any cause is a non-resident then in that division in which the property attached or seized is located or the cause of action arose; in criminal cases the defendant shall be tried in that division in which the crime or offense was committed. If any civil cause or proceeding is brought contrary to the above provisions or if any criminal case is made returnable to the division in which the crime or offense was not committed, then such defendant or any one of them, if more than one in the same case, may in vacation make application to the clerk of the court to have his case transferred to the proper division, and upon the filing of such application, such clerk shall transfer the said case, together with the file of papers therein, and if such application is made in term time, the court shall make an order transferring the same. That the court at each place as also the grand jury empanelled at each place shall have jurisdiction co-extensive with the county.

Grand jurors,  
how drawn.

Section 3. That grand jurors for the terms of court held at each of the places named shall be drawn from the county at large as now provided by the general laws of the State; that petit jurors shall be drawn from the particular division in which the court is to be held, and in every other particular the manner of selection and drawing shall be as under the general laws of the state regulating the same.

Repeal.

Section 4. That all laws of a local character in so far as they conflict with or are repugnant to the provisions of this act be and the same are hereby repealed.

Approved Aug. 31, 1909

**INTEREST LAWS AND STATUTES OF VARIOUS STATES  
OF THE UNION.**

States and Territories.	Interest Laws.		Statutes of Limitations.		
	Legal rate, per cent.	Rate allowed by contract, per ct.	Judgments, year.	Notes, years.	Open accts. years.
Alabama -----	8	8	20	0	23
Arkansas -----	6	10	10	5	3
Arizona -----	7	*	5	5	3
California -----	7	*	5	4	2
Colorado -----	8	*	0	0	0
Connecticut -----	0	†	‡	0	0
Delaware -----	0	0	--	0	3
District of Columbia -----	6	10	12	3	3
Florida -----	8	10	20	5	4
Georgia -----	7	8	7	0	4
Idaho -----	7	12	0	5	4
Illinois -----	5	7	7	10	5
Indiana -----	0	8	20	10	0
Iowa -----	0	8	20	10	5
Kansas -----	6	10	5	5	3
Kentucky -----	0	6	15	15	2
Louisiana -----	5	8	10	5	3
Maine -----	0	*	20	0	0
Maryland -----	0	0	12	3	3
Massachusetts -----	0	*	20	0	0
Michigan -----	0	8	0	0	0
Minnesota -----	7	10	10	0	0
Mississippi -----	6	10	7	0	3
Missouri -----	6	8	10	10	5
Montana -----	10	*	10	8	3
Nebraska -----	7	10	5	5	4
Nevada -----	7	*	0	0	4

## INTEREST LAWS AND STATUTES OF LIMITATIONS—Continued.

States and Territories.	Interest Laws.		Statutes of Limitations.		
	Legal rate, per cent.	Rate allowed by contract, per ct.	Judgments, year.	Notes, years.	Open accts. years.
New Hampshire -----	6	6	20	6	6
New Jersey -----	6	6	20	6	6
New Mexico -----	6	12	7	6	4
New York -----	6	6	20	6	6
North Carolina -----	6	6	10	3	3
North Dakota -----	6	12	10	6	6
Ohio -----	6	8	5	15	6
Oklahoma -----	7	12	5	5	3
Oregon -----	8	10	10	6	6
Pennsylvania -----	6	6	5	6	6
Rhode Island -----	6	*	20	6	6
South Carolina -----	7	8	20	6	6
South Dakota -----	7	12	10	6	6
Tennessee -----	6	*	10	6	6
Texas -----	6	10	10	4	2
Utah -----	8	*	8	6	4
Vermont -----	6	6	8	6	6
Virginia -----	6	6	10	5	2
Washington -----	7	12	6	6	3
West Virginia -----	6	6	10	10	5
Wisconsin -----	6	10	20	6	6
Wyoming -----	8	12	5	5	3

\*Any rate; †any rate, but only 6 per cent. can be collected by law.  
‡no law.

## STATE OFFICERS.

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### THE OFFICIAL HEADS OF THE DEPARTMENTS.

Braxton Bragg Comer, of Jefferson.....	Governor.
Henry B. Gray, of Jefferson.....	Lieutenant Governor.
Alexander M. Garber, of Talladega.....	Attorney General.
Wm. W. Brandon, of Tuscaloosa.....	State Auditor.
Frank N. Julian, of Colbert.....	Secretary of State.
Walter D. Seed, of Tuscaloosa.....	State Treasurer.
Harry C. Gunnels, of Calhoun.....	Superintendent of Education.
J. A. Wilkinson, of Autauga.....	Commissioner of Agriculture and Industries.
(has. Henderson, of Pike.....	President Railroad Commission.
W. H. Sanders, of Mobile.....	State Health Officer.
J. Craig Smith, of Dallas.....	President Convict Board.
J. J. Mitchell, of Lauderdale.....	Pres. State Tax Commission.
James R. Dowdell, of Chambers.....	Chief Justice of the Supreme Court.
Bibb Graves, of Montgomery.....	Adjutant General.
John Purifoy, of Wilcox.....	Examiner of Public Accounts.
Thomas M. Owen, of Jefferson.....	Director Dept. Archives and History.
K. W. Manning, of Clay.....	State Land Agent.
Wm. M. Byrd, of Jefferson.....	Commissioner State S. and O. Lands.
John H. Wallace, Jr., of Madison.....	State Game and Fish Commissioner.
W. H. Seymour, of Montgomery.....	Director Ala. Bureau of Cotton Statistics.
R. H. deHoll, of Jefferson.....	Immigration Commissioner.

## LEGISLATIVE DEPARTMENT.

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Legislature meets quadrennially, sessions limited to 50 working days.  
Special sessions limited to 30 working days.

### OFFICERS OF THE SENATE.

Lieutenant Governor and President of Senate—Henry B. Gray, of Jefferson.  
President Pro-Tem -----E. P. Thomas, of Barbour.  
Secretary -----J. A. Kyle, of Jackson.  
Assistant Secretary-----P. A. Savage, of Jefferson.  
Engrossing and Enrolling Clerk-----Mrs. M. V. Gesner, of Montgomery.  
Comparing Clerk -----Mrs. Laura J. Alley, of Montgomery.  
Doorkeeper -----W. B. Kemp, of Monroe.  
Assistant Doorkeeper-----W. H. Maybin, of Montgomery.  
Doorkeeper of Gallery-----J. T. Watkins, of Barbour.  
Messenger-----Tom Hays.  
Pages—John Reynolds, Julian Reid, Armistead Gayle and Earl Devinyay.

### STATE SENATE, SPECIAL SESSION—1909.

First District—Lauderdale and Limestone: Wm. N. Hayes, of Monroeville.

Second District—Lawrence and Morgan: W. T. Lowe, of Decatur.

Third District—Blount, Cullman and Winston: John F. Wilson, of Oneonta.

Fourth District—Madison: Robert Elias Spragins, of Huntsville.

Fifth District—Jackson and Marshall: Samuel Phillips, of Albertville.

Sixth District—Etowah and St. Clair: Ed D. Hamner, of Attalla.

Seventh District—Calhoun: Frederick Leonard Blackmon, of Anniston.

Eighth District—Talladega: J. W. Heacock, of Talladega.

Ninth District—Chambers and Randolph: J. W. Overton, of Wedowee.

Tenth District—Elmore and Tallapoosa: J. W. Strother, of Dadeville.

Eleventh District—Tuscaloosa: F. S. Moody, of Tuscaloosa.

Twelfth District—Fayette, Lamar and Walker: M. L. Leith, of Jasper.

Thirteenth District—Jefferson: N. L. Miller, of Birmingham.

Fourteenth District—Pickens and Sumter: G. B. Wimberly, of Reform.

Fifteenth District—Autauga, Chilton and Shelby: H. S. Doster, of Prattville.

Sixteenth District—Lowndes: Evans Hinson, of Hayneville.

Seventeenth District—Butler, Conecuh and Covington: C. E. Reid, of Andalusia.

Eighteenth District—Bibb and Perry: H. E. Reynolds, of Centreville.  
 Nineteenth District—Choctaw, Clarke and Washington: Norman Gunn, of Thomasville.

Twentieth District—Marengo: J. J. King, of Consul.

Twenty-first District—Baldwin, Escambia nad Monroe: \*O. O. Bayles, of Monroeville.

Twenty-second District—Wilcox: William Clarence Jones, of Camden.

Twenty-third District—Dale and Geneva: P. B. Davis, of Chancellor.

Twenty-fourth District—Barbour: Elias Perry Thomas, of Eufaula.

Twenty-fifth District—Coffee, Crenshaw and Pike: John Gamble, of Troy.

Twenty-sixth District—Bullock and Macon: H. P. Merritt, of Tuskegee.

Twenty-seventh District—Lee and Russell: E. H. Glenn, of Seale.

Twenty-eighth District—Montgomery: C. B. Teasley, of Montgomery.

Twenty-ninth District—Cherokee and DeKalb: W. W. Barbour, of Fort Payne.

Thirtieth District—Dallas: H. F. Reese, of Selma.

Thirty-first District—Colbert, Franklin and Marion: G. T. McWhorter, of Riverton.

Thirty-second District—Greene and Hale: Amos Horton, of Pleasant Ridge.

Thirty-third District—Mobile: Max Hamburger, of Mobile.

Thirty-fourth District—Cleburne, Clay and Coosa: D. M. White, of Goodwater.

Thirty-fifth District—Henry and Houston: B. A. Forrester, of Cowarts.

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\*Deceased.

## OFFICERS OF THE HOUSE.

SPECIAL SESSION 1909.

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Hon. A. H. Carmichael, of Colbert.....Speaker.  
 Cyrus B. Brown, of Montgomery.....Clerk.  
 Wm. F. Herbert, of Marengo.....Assistant Clerk.  
 Frank A. Gamble, of Walker.....Engrossing Clerk.  
 T. H. Seay, of Montgomery.....Enrolling Clerk.  
 Kyle B. Price, of Coffee.....Reading Clerk.  
 Robert Hasson, of Calhoun.....Doorkeeper.  
 T. W. DeYampert, of Montgomery.....Assistant Doorkeeper.  
 Joel Barnett.....Doorkeeper of the Gallery.  
 Messengers—Eddie Dent, W. T. O'Bannon and Charles E. McCall.  
 Pages—Morgan Sherrod, Ellis Cranford, Hugh Hale, Gus Borders.  
 Ralph Mitchell and Joel Rainer.

## HOUSE, SPECIAL SESSION 1909.

Autauga—Eugene Ballard, Prattville.  
 Baldwin—S. C. Jenkins, Bay Minette.  
 Barbour—J. S. Williams, Clayton; R. M. Lee, Cllo.  
 Bibb—Jerome T. Fuller, Centerville.  
 Blount—J. S. Wittmeier, Cleveland.  
 Bullock—\*N. B. Powell, Union Springs; S. P. Rainer, Union Springs.  
 Butler—W. J. Jones, Butler Springs; J. Lee Long, Greenville.  
 Calhoun—Joseph J. Arnold, Jacksonville; Wm. H. Cooper, Oxford.  
 Chambers—S. L. Burney, Lanette; F. M. Oliver, LaFayette.  
 Cherokee—Charles Rattray, Jamestown.  
 Chilton—J. Osmond Middleton, Clanton.  
 Choctaw—Wallace H. Lindsey, Butler.  
 Clarke—Isaac Pugh, Grove Hill; J. D. Doyle, Saltpa.  
 Clay—J. D. Carmichael, Goodwater, R. F. D.  
 Cleburne—John A. Brown, Belle Mills.  
 Coffee—R. H. Arrington, Enterprise.  
 Colbert—A. H. Carmichael, Tuscumbia.  
 Conecuh—J. D. McCrory, Evergreen.  
 Coosa—John W. Johnson, Alexander City, R. F. D.  
 Covington—Abner Powell, Andalusia.  
 Crenshaw—M. W. Rushton, Luverne.  
 Cullman—George H. Parker, Cullman.  
 Dale—Wm. Garner, Ozark, Ala.



Dallas—Robert R. Kornegay, Selma; Alexander D. Pitts, Selma; Samuel C. Lacy, Vale Grande.

DeKalb—W. H. Elrod, Fort Payne, Ala.

Elmore—W. L. Lancaster, Wetumpka; Lamar Smith, Tallassee, R. F. D.

Escambia—J. H. L. Henley, Bradley.

Etowah—Alto V. Lee, Jr., Gadsden; H. P. Smith, Keener.

Fayette—W. M. Cannon, Fayette.

Franklin—W. P. Hughes, Russellville.

Geneva—J. R. Alford, Hartford.

Greene—W. B. Baltzell, Baltzell.

Hale—H. Graham Benners, Greensboro; Alfred M. Tunstall, Greensboro.

Henry—J. W. Malone, Abbeville, R. F. D. -----; J. R. Vann, Abbeville, R. F. D. -----.

Houston—W. L. Lee, Columbia.

Jackson—James Armstrong, Scottsboro; James S. Benson, Langston.

Jefferson—John T. Glover, L. J. Haley, Sam Will John, Jere C. King, F. I. Tarrant, W. E. Urquhart, Birmingham; M. C. Ragsdale, McCalla.

Lamar—C. W. White, Millport.

Lauderdale—B. W. Cunningham, Rodgersville; H. A. Killen, Green Hill.

Lawrence—C. M. Sherrod, Courtland. --

Lee—R. C. Smith, Opelika; Warren Williams, Phoenix City.

Limestone—B. B. Peete, Athens, R. F. D. -----.

Lowndes—D. F. Crum, Farmersville; W. D. McCurdy, Lowndesboro.

Macon—E. W. Thompson, Tuskegee.

Madison—A. D. Kirby, Huntsville; N. M. Rowe, Triana.

Marengo—W. B. Doyle, Dixon's Mill; S. G. Woolf, Demopolis.

Marion—C. E. Mitchell, Hamilton.

Marshall—W. M. Coleman, Albertville.

Mobile—Francis O. Hoffman, Mobile; A. S. Lyons, Mobile; Jos. H. Norville, Mobile.

\*Deceased.

Monroe—John McDuffie, River Ridge.

Montgomery—Gaston Gunter, O. C. Maner, P. B. Mastin, Frank Stollenwerk, Jr., Montgomery.

Morgan—Wm. H. Long, Jr., Decatur; John R. Sample, Hartselle.

Perry—W. L. Pitts, Sr., Unlontown; George P. White, Marion.

Pickens—J. M. Pratt, Reform.

Pike—H. W. Ballard, Milo; J. T. Sanders, Goshen.

Randolph—W. R. Avery, Wehadka.

Russell—Homer R. Dudley, Seale; Wm. J. Price, Girard.

Shelby—Hosea Pearson, Shelby, Ala.

St. Clair—J. W. Moore, Coal City.

Sumter—W. A. Altman, York; Robert L. Seale, Livingston.

Talladega—J. H. Lawson, Talladega ; J. B. Sanford, Sylacauga.  
Tallapoosa—Thos. L. Bulger, Dadeville ; J. Fletcher Turner, Dadeville.  
Tuscaloosa—S. F. Mayfield, Fleetwood Rice, Northport.  
Walker—E. R. Lacy, Jasper ; J. H. Cranford, Jasper.  
Washington—Perry Edwards, Escatawpa.  
Wilcox—Sol. D. Bloch, Camden ; Lee McMillan, Gastonburg.  
Winston—W. M. Barton, Lynn.

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